

1 CONTRACT FOR PROVISION OF
 2 SOBERING CENTER SERVICES
 3 BETWEEN
 4 COUNTY OF ORANGE
 5 AND
 6 TELECARE CORPORATION
 7 NOVEMBER 1, 2020 THROUGH JUNE 30, 2023
 8

9 THIS CONTRACT entered into this 1st day of November 2020, (effective date), is by and between
 10 the COUNTY OF ORANGE, a political subdivision of State of California (COUNTY), and
 11 TELECARE CORPORATION., a California for profit Corporation (CONTRACTOR). COUNTY and
 12 CONTRACTOR may sometimes be referred to herein individually as "Party" or collectively as
 13 "Parties." This Contract shall be administered by the County of Orange Health Care Agency
 14 (ADMINISTRATOR).
 15

16 WITNESSETH:
 17

18 WHEREAS, COUNTY wishes to contract with CONTRACTOR for the provision of Sobering
 19 Center Services described herein to the residents of Orange County; and

20 WHEREAS, CONTRACTOR is agreeable to the rendering of such services on the terms and
 21 conditions hereinafter set forth:

22 NOW, THEREFORE, in consideration of the mutual covenants, benefits, and promises contained
 23 herein, COUNTY and CONTRACTOR do hereby agree as follows:

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REFERENCED CONTRACT PROVISIONS**Term:** November 1, 2020 through June 30, 2023

Period One means the period from November 1, 2020 through June 30, 2021

Period Two means the period from July 1, 2021 through June 30, 2022

Period Three means the period from July 1, 2022 through June 30, 2023

Maximum Obligation: Period One Maximum Obligation:	\$ 650,949
Period Two Maximum Obligation:	1,142,502
Period Three Maximum Obligation:	<u>1,147,481</u>
TOTAL MAXIMUM OBLIGATION:	\$2,940,932

Basis for Reimbursement: Actual Cost**Payment Method:** Monthly in Arrears**CONTRACTOR DUNS Number:** 07-654-7363**CONTRACTOR TAX ID Number:** 94-1735271**Federal Grant Funding:**

<u>CFDA#</u>	<u>FAIN#</u>	<u>Program/ Service Title</u>	<u>Federal Funding Agency</u>	<u>Federal Award Date</u>	<u>Federal Award Indirect Rate</u>	<u>Federal Award Amount</u>	<u>R&D Award (Y/N)</u>
93.959	TI0062-20	Substance Abuse Prevention and Treatment Block Grant	HHS	FY 20/21	25.45%	\$19,276,499	N

Notices to COUNTY and CONTRACTOR:

COUNTY: County of Orange
Health Care Agency
Contract Services
405 West 5th Street, Suite 600
Santa Ana, CA 92701-4637

CONTRACTOR: Telecare Corporation
1080 Marina Village Parkway, Suite 100
Alameda, CA 94501
Leslie Davis
Senior Vice President, Chief Financial Officer
ldavis@telecarecorp.com

I. ACRONYMS

The following standard definitions are for reference purposes only and may or may not apply in their entirety throughout this Contract:

1		
2		
3		
4	A. AES	Advanced Encryption Standard
5	B. ARRA	American Recovery and Reinvestment Act
6	C. ASAM	American Society of Addiction Medicine
7	D. ASRS	Alcohol and Drug Programs Reporting System
8	E. BCP	Business Continuity Plan
9	F. CalOMS	California Outcomes Measurement System
10	G. CAP	Corrective Action Plan
11	H. CCC	California Civil Code
12	I. CCR	California Code of Regulations
13	J. CD/DVD	Compact Disc/Digital Video or Versatile Disc
14	K. CEO	County Executive Office
15	L. CESI	Client Evaluation of Self at Intake
16	M. CEST	Client Evaluation of Self and Treatment
17	N. CHHS	California Health and Human Services Agency
18	O. CFR	Code of Federal Regulations
19	P. CHPP	COUNTY HIPAA Policies and Procedures
20	Q. CHS	Correctional Health Services
21	R. CIPA	California Information Practices Act
22	S. CMPPA	Computer Matching and Privacy Protection Act
23	T. COI	Certificate of Insurance
24	U. CSU	Crisis Stabilization Unit
25	V. DATAR	Drug Abuse Treatment Access Report
26	W. D/MC	Drug/Medi-Cal
27	X. DHCS	Department of Health Care Services
28	Y. DMV	Department of Motor Vehicles
29	Z. DoD	US Department of Defense
30	AA. DOJ	Department of Justice
31	AB. DPFS	Drug Program Fiscal Systems
32	AC. DRP	Disaster Recovery Plan
33	AD. DRS	Designated Record Set
34	AE. DSM-5	Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition
35	AF. EHR	Electronic Health Records
36	AG. ePHI	Electronic Protected Health Information
37	AH. FIPS	Federal Information Processing Standards

1	AI.	FTE	Full Time Equivalent
2	AJ.	GAAP	Generally Accepted Accounting Principles
3	AK.	HCA	Health Care Agency
4	AL.	HHS	Health and Human Services
5	AM.	HIPAA	Health Insurance Portability and Accountability Act of 1996, Public
6			Law 104-191
7	AN.	HSC	California Health and Safety Code
8	AO.	ID	Identification
9	AP.	IEA	Information Exchange Agreement
10	AQ.	IRIS	Integrated Records and Information System
11	AR.	ISO	Insurance Services Office
12	AS.	MHP	Mental Health Plan
13	AT.	NIATx	Network for Improvement of Addiction Treatment
14	AU.	NIST	National Institute of Standards and Technology
15	AV.	OCJS	Orange County Jail System
16	AW.	OCPD	Orange County Probation Department
17	AX.	OCR	Office for Civil Rights
18	AY.	OCSD	Orange County Sheriff's Department
19	AZ.	OIG	Office of Inspector General
20	BA.	OMB	Office of Management and Budget
21	BB.	OPM	Federal Office of Personnel Management
22	BC.	P&P	Policy and Procedure
23	BD.	PA DSS	Payment Application Data Security Standard
24	BE.	PC	State of California Penal Code
25	BF.	PCI DSS	Payment Card Industry Data Security Standard
26	BG.	PHI	Protected Health Information
27	BH.	PII	Personally Identifiable Information
28	BI.	PI	Personal Information
29	BJ.	PRA	Public Record Act
30	BK.	SIR	Self-Insured Retention
31	BL.	SUD	Substance Use Disorder
32	BM.	TB	Tuberculosis
33	BN.	HITECH Act	The Health Information Technology for Economic and Clinical Health
34			Act, Public Law 111-005
35	BO.	USC	United States Code
36	BP.	WIC	State of California Welfare and Institutions Code
37			//

II. ALTERATION OF TERMS

1
2 A. This Contract, together with Exhibit(s) A, B, and C, attached hereto and incorporated herein,
3 fully expresses the complete understanding of COUNTY and CONTRACTOR with respect to the
4 subject matter of this Contract.

5 B. Unless otherwise expressly stated in this Contract, no addition to, or alteration of, the terms of
6 this Contract or any Exhibits, whether written or verbal, made by the parties, or their officers, employees
7 or agents shall be valid unless made in the form of a written amendment to this Contract, which has been
8 formally approved and executed by both parties.

III. ASSIGNMENT OF DEBTS

9
10
11 Unless this Contract is followed without interruption by another Contract between the Parties hereto
12 for the same services and substantially the same scope, at the termination of this Contract,
13 CONTRACTOR shall assign to COUNTY any debts owing to CONTRACTOR by or on behalf of
14 persons receiving services pursuant to this Contract. CONTRACTOR shall immediately notify by mail
15 each of the respective Parties, specifying the date of assignment, the County of Orange as assignee, and
16 the address to which payments are to be sent. Payments received by CONTRACTOR from or on behalf
17 of said persons, shall be immediately given to COUNTY.

IV. COMPLIANCE

18
19
20 A. COMPLIANCE PROGRAM - ADMINISTRATOR has established a Compliance Program for
21 the purpose of ensuring adherence to all rules and regulations related to federal and state health care
22 programs.

23 1. ADMINISTRATOR shall provide CONTRACTOR with a copy of the policies and
24 procedures relating to ADMINISTRATOR's Compliance Program, Code of Conduct and access to
25 General Compliance and Annual Provider Trainings.

26 2. CONTRACTOR has the option to provide ADMINISTRATOR with proof of its own
27 compliance program, code of conduct and any compliance related policies and procedures.
28 CONTRACTOR's compliance program, code of conduct and any related policies and procedures shall
29 be verified by ADMINISTRATOR's Compliance Department to ensure they include all required
30 elements by ADMINISTRATOR's Compliance Officer as described in this Compliance Paragraph to
31 this Contract. These elements include:

- 32 a. Designation of a Compliance Officer and/or compliance staff.
33 b. Written standards, policies and/or procedures.
34 c. Compliance related training and/or education program and proof of completion.
35 d. Communication methods for reporting concerns to the Compliance Officer.
36 e. Methodology for conducting internal monitoring and auditing.
37 f. Methodology for detecting and correcting offenses.

1 g. Methodology/Procedure for enforcing disciplinary standards.

2 3. If CONTRACTOR does not provide proof of its own compliance program to
3 ADMINISTRATOR, CONTRACTOR shall internally comply with ADMINISTRATOR's Compliance
4 Program and Code of Conduct, the CONTRACTOR shall submit to the ADMINISTRATOR within
5 thirty (30) calendar days of execution of this Contract a signed acknowledgement that CONTRACTOR
6 will internally comply with ADMINISTRATOR's Compliance Program and Code of Conduct.
7 CONTRACTOR shall have as many Covered Individuals it determines necessary complete
8 ADMINISTRATOR's annual compliance training to ensure proper compliance.

9 4. If CONTRACTOR elects to have its own compliance program, code of conduct and any
10 Compliance related policies and procedures reviewed by ADMINISTRATOR, then CONTRACTOR
11 shall submit a copy of its compliance program, code of conduct and all relevant policies and procedures
12 to ADMINISTRATOR within thirty (30) calendar days of execution of this Contract.
13 ADMINISTRATOR's Compliance Officer, or designee, shall review said documents within a
14 reasonable time, which shall not exceed forty-five (45) calendar days, and determine if contractor's
15 proposed compliance program and code of conduct contain all required elements to the
16 ADMINISTRATOR's satisfaction as consistent with the HCA's Compliance Program and Code of
17 Conduct. ADMINISTRATOR shall inform CONTRACTOR of any missing required elements and
18 CONTRACTOR shall revise its compliance program and code of conduct to meet
19 ADMINISTRATOR's required elements within thirty (30) calendar days after ADMINISTRATOR's
20 Compliance Officer's determination and resubmit the same for review by the ADMINISTRATOR.

21 5. Upon written confirmation from ADMINISTRATOR's compliance officer that the
22 CONTRACTOR's compliance program, code of conduct and any compliance related policies and
23 procedures contain all required elements, CONTRACTOR shall ensure that all Covered Individuals
24 relative to this Contract are made aware of CONTRACTOR's compliance program, code of conduct,
25 related policies and procedures and contact information for the ADMINISTRATOR's Compliance
26 Program.

27 B. SANCTION SCREENING – CONTRACTOR shall screen all Covered Individuals employed or
28 retained to provide services related to this Contract monthly to ensure that they are not designated as
29 Ineligible Persons, as pursuant to this Contract. Screening shall be conducted against the General
30 Services Administration's Excluded Parties List System or System for Award Management, the Health
31 and Human Services/Office of Inspector General List of Excluded Individuals/Entities, and the
32 California Medi-Cal Suspended and Ineligible Provider List, the Social Security Administration's Death
33 Master File at date of employment, and/or any other list or system as identified by ADMINISTRATOR.

34 1. For purposes of this Compliance Paragraph, Covered Individuals includes all employees,
35 interns, volunteers, contractors, subcontractors, agents, and other persons who provide health care items
36 or services or who perform billing or coding functions on behalf of ADMINISTRATOR.
37 CONTRACTOR shall ensure that all Covered Individuals relative to this Contract are made aware of

1 ADMINISTRATOR's Compliance Program, Code of Conduct and related policies and procedures (or
2 CONTRACTOR's own compliance program, code of conduct and related policies and procedures if
3 CONTRACTOR has elected to use its own).

4 2. An Ineligible Person shall be any individual or entity who:

5 a. is currently excluded, suspended, debarred or otherwise ineligible to participate in
6 federal and state health care programs; or

7 b. has been convicted of a criminal offense related to the provision of health care items or
8 services and has not been reinstated in the federal and state health care programs after a period of
9 exclusion, suspension, debarment, or ineligibility.

10 3. CONTRACTOR shall screen prospective Covered Individuals prior to hire or engagement.
11 CONTRACTOR shall not hire or engage any Ineligible Person to provide services relative to this
12 Contract.

13 4. CONTRACTOR shall screen all current Covered Individuals and subcontractors monthly to
14 ensure that they have not become Ineligible Persons. CONTRACTOR shall also request that its
15 subcontractors use their best efforts to verify that they are eligible to participate in all federal and State
16 of California health programs and have not been excluded or debarred from participation in any federal
17 or state health care programs, and to further represent to CONTRACTOR that they do not have any
18 Ineligible Person in their employ or under contract.

19 5. Covered Individuals shall be required to disclose to CONTRACTOR immediately any
20 debarment, exclusion or other event that makes the Covered Individual an Ineligible Person.
21 CONTRACTOR shall notify ADMINISTRATOR immediately if a Covered Individual providing
22 services directly relative to this Contract becomes debarred, excluded or otherwise becomes an
23 Ineligible Person.

24 6. CONTRACTOR acknowledges that Ineligible Persons are precluded from providing
25 federal and state funded health care services by contract with COUNTY in the event that they are
26 currently sanctioned or excluded by a federal or state law enforcement regulatory or licensing agency.
27 If CONTRACTOR becomes aware that a Covered Individual has become an Ineligible Person,
28 CONTRACTOR shall remove such individual from responsibility for, or involvement with, COUNTY
29 business operations related to this Contract.

30 7. CONTRACTOR shall notify ADMINISTRATOR immediately if a Covered Individual or
31 entity is currently excluded, suspended or debarred, or is identified as such after being sanction
32 screened. Such individual or entity shall be immediately removed from participating in any activity
33 associated with this Contract. ADMINISTRATOR will determine appropriate repayment from, or
34 sanction(s) to CONTRACTOR for services provided by ineligible person or individual.
35 CONTRACTOR shall promptly return any overpayments within forty-five (45) business days after the
36 overpayment is verified by ADMINISTRATOR.

37 //

1 C. GENERAL COMPLIANCE TRAINING - ADMINISTRATOR shall make General
2 Compliance Training available to Covered Individuals.

3 1. CONTRACTORS that have acknowledged to comply with ADMINISTRATOR's
4 Compliance Program shall use its best efforts to encourage completion by all Covered Individuals;
5 provided, however, that at a minimum CONTRACTOR shall assign at least one (1) designated
6 representative to complete the General Compliance Training when offered.

7 2. Such training will be made available to Covered Individuals within thirty (30) calendar
8 days of employment or engagement.

9 3. Such training will be made available to each Covered Individual annually.

10 4. ADMINISTRATOR will track training completion while CONTRACTOR shall provide
11 copies of training certification upon request.

12 5. Each Covered Individual attending a group training shall certify, in writing, attendance at
13 compliance training. ADMINISTRATOR shall provide instruction on group training completion while
14 CONTRACTOR shall retain the training certifications. Upon written request by ADMINISTRATOR,
15 CONTRACTOR shall provide copies of the certifications.

16 D. SPECIALIZED PROVIDER TRAINING – ADMINISTRATOR shall make Specialized
17 Provider Training, where appropriate, available to Covered Individuals.

18 1. CONTRACTOR shall ensure completion of Specialized Provider Training by all Covered
19 Individuals relative to this Contract. This includes compliance with federal and state healthcare
20 program regulations and procedures or instructions otherwise communicated by regulatory agencies;
21 including the Centers for Medicare and Medicaid Services or their agents.

22 2. Such training will be made available to Covered Individuals within thirty (30) calendar
23 days of employment or engagement.

24 3. Such training will be made available to each Covered Individual annually.

25 4. ADMINISTRATOR will track online completion of training while CONTRACTOR shall
26 provide copies of the certifications upon request.

27 5. Each Covered Individual attending a group training shall certify, in writing, attendance at
28 compliance training. ADMINISTRATOR shall provide instructions on completing the training in a
29 group setting while CONTRACTOR shall retain the certifications. Upon written request by
30 ADMINISTRATOR, CONTRACTOR shall provide copies of the certifications.

31 E. MEDI-CAL BILLING, CODING, AND DOCUMENTATION COMPLIANCE STANDARDS

32 1. CONTRACTOR shall take reasonable precaution to ensure that the coding of health care
33 claims, billings and/or invoices for same are prepared and submitted in an accurate and timely manner
34 and are consistent with federal, state and county laws and regulations. This includes compliance with
35 federal and state health care program regulations and procedures or instructions otherwise
36 communicated by regulatory agencies including the Centers for Medicare and Medicaid Services or
37 their agents.

1 2. CONTRACTOR shall not submit any false, fraudulent, inaccurate and/or fictitious claims
2 for payment or reimbursement of any kind.

3 3. CONTRACTOR shall bill only for those eligible services actually rendered which are also
4 fully documented. When such services are coded, CONTRACTOR shall use proper billing codes which
5 accurately describes the services provided and must ensure compliance with all billing and
6 documentation requirements.

7 4. CONTRACTOR shall act promptly to investigate and correct any problems or errors in
8 coding of claims and billing, if and when, any such problems or errors are identified.

9 5. CONTRACTOR shall promptly return any overpayments within forty-five (45) business
10 days after the overpayment is verified by the ADMINISTRATOR.

11 6. CONTRACTOR shall meet the HCA MHP Quality Management Program Standards and
12 participate in the quality improvement activities developed in the implementation of the Quality
13 Management Program.

14 7. CONTRACTOR shall comply with the provisions of the ADMINISTRATOR's Cultural
15 Competency Plan submitted and approved by the state. ADMINISTRATOR shall update the Cultural
16 Competency Plan and submit the updates to the State for review and approval annually. (CCR, Title 9,
17 §1810.410.subds. (c)- (d).

18 F. Failure to comply with the obligations stated in this Compliance Paragraph shall constitute a
19 breach of the Contract on the part of CONTRACTOR and grounds for COUNTY to terminate the
20 Contract. Unless the circumstances require a sooner period of cure, CONTRACTOR shall have thirty
21 (30) calendar days from the date of the written notice of default to cure any defaults grounded on this
22 Compliance Paragraph prior to ADMINISTRATOR's right to terminate this Contract on the basis of
23 such default.

24 25 **V. CONFIDENTIALITY**

26 A. CONTRACTOR shall maintain the confidentiality of all records, including billings and any
27 audio and/or video recordings, in accordance with all applicable federal, state and county codes and
28 regulations, including 42 USC §290dd-2 (Confidentiality of Records), as they now exist or may
29 hereafter be amended or changed.

30 B. Prior to providing any services pursuant to this Contract, all members of the Board of Directors
31 or its designee or authorized agent, employees, consultants, subcontractors, volunteers and interns of the
32 CONTRACTOR shall agree, in writing, with CONTRACTOR to maintain the confidentiality of any and
33 all information and records which may be obtained in the course of providing such services. This
34 Contract shall specify that it is effective irrespective of all subsequent resignations or terminations of
35 CONTRACTOR members of the Board of Directors or its designee or authorized agent, employees,
36 consultants, subcontractors, volunteers and interns.

37 //

1 C. CONTRACTOR shall have in effect a system to protect patient records from inappropriate
2 disclosure in connection with activity funded under this Contract. This system shall include provisions
3 for employee education on the confidentiality requirements, and the fact that disciplinary action may
4 occur upon inappropriate disclosure. CONTRACTOR agrees to implement administrative, physical, and
5 technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and
6 availability of all confidential information that it creates, receives, maintains or transmits.
7 CONTRACTOR shall provide ADMINISTRATOR with information concerning such safeguards.

8 D. CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect that is known
9 to CONTRACTOR, or its subcontractors or agents in violation of the applicable state and federal
10 regulations regarding confidentiality.

11 E. CONTRACTOR shall monitor compliance with the above provisions on confidentiality and
12 security, and shall include them in all subcontracts.

13 F. CONTRACTOR shall notify ADMINISTRATOR within twenty-four (24) hours during a work
14 week, of any suspected or actual breach of its computer system.

15 16 **VI. CONFLICT OF INTEREST**

17 CONTRACTOR shall exercise reasonable care and diligence to prevent any actions or conditions
18 that could result in a conflict with COUNTY interests. In addition to CONTRACTOR, this obligation
19 shall apply to CONTRACTOR's employees, agents, and subcontractors associated with the provision of
20 goods and services provided under this Contract. CONTRACTOR's efforts shall include, but not be
21 limited to establishing rules and procedures preventing its employees, agents, and subcontractors from
22 providing or offering gifts, entertainment, payments, loans or other considerations which could be
23 deemed to influence or appear to influence COUNTY staff or elected officers in the performance of
24 their duties.

25 26 **VII. COST REPORT**

27 A. CONTRACTOR shall submit separate individual and/or consolidated Cost Reports for Period
28 One, Period Two, and Period Three, or for a portion thereof, to COUNTY no later than forty-five (45)
29 calendar days following the period for which they are prepared or termination of this Contract.
30 CONTRACTOR shall prepare the individual and/or consolidated Cost Report in accordance with all
31 applicable federal, state and COUNTY requirements, GAAP and the Special Provisions Paragraph of
32 this Contract. CONTRACTOR shall allocate direct and indirect costs to and between programs, cost
33 centers, services, and funding sources in accordance with such requirements and consistent with prudent
34 business practice, which costs and allocations shall be supported by source documentation maintained
35 by CONTRACTOR, and available at any time to ADMINISTRATOR upon reasonable notice. In the
36 event CONTRACTOR has multiple Contracts for mental health services that are administered by HCA,
37 consolidation of the individual Cost Reports into a single consolidated Cost Report may be required, as

1 stipulated by ADMINISTRATOR. CONTRACTOR shall submit the consolidated Cost Report to
2 COUNTY no later than five (5) business days following approval by ADMINISTRATOR of all
3 individual Cost Reports to be incorporated into a consolidated Cost Report.

4 1. If CONTRACTOR fails to submit an accurate and complete individual and/or consolidated
5 Cost Report within the time period specified above, ADMINISTRATOR shall have sole discretion to
6 impose one or both of the following:

7 a. CONTRACTOR may be assessed a late penalty of five hundred dollars (\$500) for each
8 business day after the above specified due date that the accurate and complete individual and/or
9 consolidated Cost Report is not submitted. Imposition of the late penalty shall be at the sole discretion
10 of the ADMINISTRATOR. The late penalty shall be assessed separately on each outstanding individual
11 and/or consolidated Cost Report due COUNTY by CONTRACTOR.

12 b. ADMINISTRATOR may withhold or delay any or all payments due CONTRACTOR
13 pursuant to any or all Contracts between COUNTY and CONTRACTOR until such time that the
14 accurate and complete individual and/or consolidated Cost Report is delivered to ADMINISTRATOR.

15 2. CONTRACTOR may request, in advance and in writing, an extension of the due date of
16 the individual and/or consolidated Cost Report setting forth good cause for justification of the request.
17 Approval of such requests shall be at the sole discretion of ADMINISTRATOR and shall not be
18 unreasonably denied. In no case shall extensions be granted for more than seven (7) calendar days.

19 3. In the event that CONTRACTOR does not submit an accurate and complete individual
20 and/or consolidated Cost Report within one hundred and eighty (180) calendar days following the
21 termination of this Contract, and CONTRACTOR has not entered into a subsequent or new Contract for
22 any other services with COUNTY, then all amounts paid to CONTRACTOR by COUNTY during the
23 term of the Contract shall be immediately reimbursed to COUNTY.

24 B. The individual and/or consolidated Cost Report prepared for each period shall be the final
25 financial and statistical report submitted by CONTRACTOR to COUNTY, and shall serve as the basis
26 for final settlement to CONTRACTOR for that period. CONTRACTOR shall document that costs are
27 reasonable and allowable and directly or indirectly related to the services to be provided hereunder. The
28 individual and/or consolidated Cost Report shall be the final financial record for subsequent audits, if
29 any.

30 C. Final settlement shall be based upon the actual and reimbursable costs for services hereunder,
31 less applicable revenues and any late penalty, not to exceed COUNTY's Maximum Obligation as set
32 forth in the Referenced Contract Provisions of this Contract. CONTRACTOR shall not claim
33 expenditures to COUNTY which are not reimbursable pursuant to applicable federal, state and
34 COUNTY laws, regulations and requirements. Any payment made by COUNTY to CONTRACTOR,
35 which is subsequently determined to have been for an unreimbursable expenditure or service, shall be
36 repaid by CONTRACTOR to COUNTY in cash, or other authorized form of payment, within thirty (30)
37 calendar days of submission of the individual and/or consolidated Cost Report or COUNTY may elect

1 to reduce any amount owed CONTRACTOR by an amount not to exceed the reimbursement due
2 COUNTY.

3 D. If the individual and/or consolidated Cost Report indicates the actual and reimbursable costs of
4 services provided pursuant to this Contract, less applicable revenues and late penalty, are lower than the
5 aggregate of interim monthly payments to CONTRACTOR, CONTRACTOR shall remit the difference
6 to COUNTY. Such reimbursement shall be made, in cash, or other authorized form of payment, with
7 the submission of the individual and/or consolidated Cost Report. If such reimbursement is not made by
8 CONTRACTOR within thirty (30) calendar days after submission of the individual and/or consolidated
9 Cost Report, COUNTY may, in addition to any other remedies, reduce any amount owed
10 CONTRACTOR by an amount not to exceed the reimbursement due COUNTY.

11 E. If the individual and/or consolidated Cost Report indicates the actual and reimbursable costs of
12 services provided pursuant to this Contract, less applicable revenues and late penalty, are higher than the
13 aggregate of interim monthly payments to CONTRACTOR, COUNTY shall pay CONTRACTOR the
14 difference, provided such payment does not exceed the Maximum Obligation of COUNTY.

15 F. Unless approved by ADMINISTRATOR, costs that exceed the Statewide Maximum Allowance
16 (SMA) rates per Medi-Cal Unit of Services, as determined by the DHCS, shall be unreimbursable to
17 CONTRACTOR.

18 G. In the event that CONTRACTOR is authorized to retain unanticipated revenues as described in
19 the Budget Paragraph of Exhibit A to this Contract, CONTRACTOR shall specify in the individual
20 and/or consolidated Cost Report the services rendered with such revenues.

21 H. All Cost Reports shall contain the following attestation, which may be typed directly on or
22 attached to the Cost Report:

23
24 "I HEREBY CERTIFY that I have executed the accompanying Cost Report and
25 supporting documentation prepared by _____ for the cost report period
26 beginning _____ and ending _____ and that, to the best of my
27 knowledge and belief, costs reimbursed through this Contract are reasonable and
28 allowable and directly or indirectly related to the services provided and that this Cost
29 Report is a true, correct, and complete statement from the books and records of
30 (provider name) in accordance with applicable instructions, except as noted. I also
31 hereby certify that I have the authority to execute the accompanying Cost Report.

32
33 Signed _____
34 Name _____
35 Title _____
36 Date _____"
37

VIII. DEBARMENT AND SUSPENSION CERTIFICATION**A. CONTRACTOR certifies that it and its principals:**

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency.

2. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.

3. Are not presently indicted for or otherwise criminally or civilly charged by a federal, state, or local governmental entity with commission of any of the offenses enumerated in Subparagraph A.2. above.

4. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

5. Shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under federal regulations (i.e., 48 CFR Part 9, Subpart 9.4), debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction unless authorized by the State of California.

6. Shall include without modification, the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion Lower Tier Covered Transaction," (i.e., transactions with sub-grantees and/or contractors) and in all solicitations for lower tier covered transactions in accordance with 2 CFR Part 376.

B. The terms and definitions of this paragraph have the meanings set out in the Definitions and Coverage sections of the rules implementing 51 F.R. 6370.

IX. DELEGATION, ASSIGNMENT, AND SUBCONTRACTS

A. CONTRACTOR may not delegate the obligations hereunder, either in whole or in part, without prior written consent of COUNTY. CONTRACTOR shall provide written notification of CONTRACTOR's intent to delegate the obligations hereunder, either in whole or part, to ADMINISTRATOR not less than sixty (60) calendar days prior to the effective date of the delegation. Any attempted assignment or delegation in derogation of this paragraph shall be void.

B. CONTRACTOR agrees that if there is a change or transfer in ownership of CONTRACTOR's business prior to completion of this Contract, and COUNTY agrees to an assignment of the Contract, the new owners shall be required under the terms of sale or other instruments of transfer to assume CONTRACTOR's duties and obligations contained in this Contract and complete them to the

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1 satisfaction of COUNTY. CONTRACTOR may not assign the rights hereunder, either in whole or in
2 part, without the prior written consent of COUNTY.

3 1. If CONTRACTOR is a nonprofit organization, any change from a nonprofit corporation to
4 any other corporate structure of CONTRACTOR, including a change in more than fifty percent (50%)
5 of the composition of the Board of Directors within a two (2) month period of time, shall be deemed an
6 assignment for purposes of this paragraph, unless CONTRACTOR is transitioning from a community
7 clinic/health center to a Federally Qualified Health Center and has been so designated by the Federal
8 Government. Any attempted assignment or delegation in derogation of this subparagraph shall be void.

9 2. If CONTRACTOR is a for-profit organization, any change in the business structure,
10 including but not limited to, the sale or transfer of more than ten percent (10%) of the assets or stocks of
11 CONTRACTOR, change to another corporate structure, including a change to a sole proprietorship, or a
12 change in fifty percent (50%) or more of Board of Directors or any governing body of CONTRACTOR
13 at one time shall be deemed an assignment pursuant to this paragraph. Any attempted assignment or
14 delegation in derogation of this subparagraph shall be void.

15 3. If CONTRACTOR is a governmental organization, any change to another structure,
16 including a change in more than fifty percent (50%) of the composition of its governing body (i.e. Board
17 of Supervisors, City Council, School Board) within a two (2) month period of time, shall be deemed an
18 assignment for purposes of this paragraph. Any attempted assignment or delegation in derogation of
19 this subparagraph shall be void.

20 4. Whether CONTRACTOR is a nonprofit, for-profit, or a governmental organization,
21 CONTRACTOR shall provide written notification of CONTRACTOR's intent to assign the obligations
22 hereunder, either in whole or part, to ADMINISTRATOR not less than sixty (60) calendar days prior to
23 the effective date of the assignment.

24 5. Whether CONTRACTOR is a nonprofit, for-profit, or a governmental organization,
25 CONTRACTOR shall provide written notification within thirty (30) calendar days to
26 ADMINISTRATOR when there is change of less than fifty percent (50%) of Board of Directors or any
27 governing body of CONTRACTOR at one time.

28 6. COUNTY reserves the right to immediately terminate the Contract in the event COUNTY
29 determines, in its sole discretion, that the assignee is not qualified or is otherwise unacceptable to
30 COUNTY for the provision of services under the Contract.

31 C. CONTRACTOR's obligations undertaken pursuant to this Contract may be carried out by
32 means of subcontracts, provided such subcontractors are approved in advance by ADMINISTRATOR,
33 meet the requirements of this Contract as they relate to the service or activity under subcontract, include
34 any provisions that ADMINISTRATOR may require, and are authorized in writing by
35 ADMINISTRATOR prior to the beginning of service delivery.

36 1. After approval of the subcontractor, ADMINISTRATOR may revoke the approval of the
37 subcontractor upon five (5) calendar days' written notice to CONTRACTOR if the subcontractor

1 subsequently fails to meet the requirements of this Contract or any provisions that ADMINISTRATOR
2 has required. ADMINISTRATOR may disallow subcontractor expenses reported by CONTRACTOR.

3 2. No subcontract shall terminate or alter the responsibilities of CONTRACTOR to COUNTY
4 pursuant to this Contract.

5 3. ADMINISTRATOR may disallow, from payments otherwise due CONTRACTOR,
6 amounts claimed for subcontracts not approved in accordance with this paragraph.

7 4. This provision shall not be applicable to service agreements usually and customarily
8 entered into by CONTRACTOR to obtain or arrange for supplies, technical support, and professional
9 services provided by consultants.

10 D. CONTRACTOR shall notify COUNTY in writing of any change in the CONTRACTOR's
11 status with respect to name changes that do not require an assignment of the Contract. CONTRACTOR
12 is also obligated to notify COUNTY in writing if the CONTRACTOR becomes a party to any litigation
13 against COUNTY, or a party to litigation that may reasonably affect the CONTRACTOR's performance
14 under the Contract, as well as any potential conflicts of interest between CONTRACTOR and County
15 that may arise prior to or during the period of Contract performance. While CONTRACTOR will be
16 required to provide this information without prompting from COUNTY any time there is a change in
17 CONTRACTOR's name, conflict of interest or litigation status, CONTRACTOR must also provide an
18 update to COUNTY of its status in these areas whenever requested by COUNTY.

19 20 **X. DISPUTE RESOLUTION**

21 A. The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the
22 dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a
23 reasonable period of time by the CONTRACTOR and the ADMINISTRATOR, such matter shall be
24 brought to the attention of the COUNTY Purchasing Agency by way of the following process:

25 1. CONTRACTOR shall submit to the COUNTY Purchasing Agency a written demand for a
26 final decision regarding the disposition of any dispute between the Parties arising under, related to, or
27 involving this Contract, unless COUNTY, on its own initiative, has already rendered such a final
28 decision.

29 2. CONTRACTOR's written demand shall be fully supported by factual information, and, if
30 such demand involves a cost adjustment to the Contract, CONTRACTOR shall include with the demand
31 a written statement signed by an authorized representative indicating that the demand is made in good
32 faith, that the supporting data are accurate and complete, and that the amount requested accurately
33 reflects the Contract adjustment for which CONTRACTOR believes COUNTY is liable.

34 B. Pending the final resolution of any dispute arising under, related to, or involving this Contract,
35 CONTRACTOR agrees to proceed diligently with the performance of services secured via this Contract,
36 including the delivery of goods and/or provision of services. CONTRACTOR's failure to proceed
37 diligently shall be considered a material breach of this Contract.

1 C. Any final decision of COUNTY shall be expressly identified as such, shall be in writing, and
2 shall be signed by a COUNTY Deputy Purchasing Agent or designee. If COUNTY fails to render a
3 decision within ninety (90) calendar days after receipt of CONTRACTOR's demand, it shall be deemed
4 a final decision adverse to CONTRACTOR's contentions.

5 D. This Contract has been negotiated and executed in the State of California and shall be governed
6 by and construed under the laws of the State of California. In the event of any legal action to enforce or
7 interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in
8 Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of
9 such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the Parties specifically
10 agree to waive any and all rights to request that an action be transferred for adjudication to another
11 county.

12 **XI. EMPLOYEE ELIGIBILITY VERIFICATION**

13 CONTRACTOR warrants that it shall fully comply with all federal and state statutes and
14 regulations regarding the employment of aliens and others and to ensure that employees, subcontractors,
15 and consultants performing work under this Contract meet the citizenship or alien status requirements
16 set forth in federal statutes and regulations. CONTRACTOR shall obtain, from all employees,
17 subcontractors, and consultants performing work hereunder, all verification and other documentation of
18 employment eligibility status required by federal or state statutes and regulations including, but not
19 limited to, the Immigration Reform and Control Act of 1986, 8 USC §1324 et seq., as they currently
20 exist and as they may be hereafter amended. CONTRACTOR shall retain all such documentation for all
21 covered employees, subcontractors, and consultants for the period prescribed by the law.
22

23 **XII. EQUIPMENT**

24 A. Unless otherwise specified in writing by ADMINISTRATOR, Equipment is defined as all
25 property of a Relatively Permanent nature with significant value, purchased in whole or in part by
26 ADMINISTRATOR to assist in performing the services described in this Contract. "Relatively
27 Permanent" is defined as having a useful life of one (1) year or longer. Equipment which costs \$5,000
28 or over, including freight charges, sales taxes, and other taxes, and installation costs are defined as
29 Capital Assets. Equipment which costs between \$600 and \$5,000, including freight charges, sales taxes
30 and other taxes, and installation costs, or electronic equipment that costs less than \$600 but may
31 contained PHI or PII, are defined as Controlled Equipment. Controlled Equipment includes, but is not
32 limited to phones, tablets, audio/visual equipment, computer equipment, and lab equipment. The cost of
33 Equipment purchased, in whole or in part, with funds paid pursuant to this Contract shall be depreciated
34 according to GAAP.
35

36 B. CONTRACTOR shall obtain ADMINISTRATOR's written approval prior to purchase of any
37 Equipment with funds paid pursuant to this Contract. Upon delivery of Equipment, CONTRACTOR

1 shall forward to ADMINISTRATOR, copies of the purchase order, receipt, and other supporting
2 documentation, which includes delivery date, unit price, tax, shipping and serial numbers.
3 CONTRACTOR shall request an applicable asset tag for said Equipment and shall include each
4 purchased asset in an Equipment inventory.

5 C. Upon ADMINISTRATOR's prior written approval, CONTRACTOR may expense to
6 COUNTY the cost of the approved Equipment purchased by CONTRACTOR. To "expense," in
7 relation to Equipment, means to charge the proportionate cost of Equipment in the fiscal year in which it
8 is purchased. Title of expensed Equipment shall be vested with COUNTY.

9 D. CONTRACTOR shall maintain an inventory of all Equipment purchased in whole or in part
10 with funds paid through this Contract, including date of purchase, purchase price, serial number, model
11 and type of Equipment. Such inventory shall be available for review by ADMINISTRATOR,
12 and shall include the original purchase date and price, useful life, and balance of depreciated Equipment
13 cost, if any.

14 E. CONTRACTOR shall cooperate with ADMINISTRATOR in conducting periodic physical
15 inventories of all Equipment. Upon demand by ADMINISTRATOR, CONTRACTOR shall return any
16 or all Equipment to COUNTY.

17 F. CONTRACTOR must report any loss or theft of Equipment in accordance with the procedure
18 approved by ADMINISTRATOR and the Notices Paragraph of this Contract. In addition,
19 CONTRACTOR must complete and submit to ADMINISTRATOR a notification form when items of
20 Equipment are moved from one location to another or returned to COUNTY as surplus.

21 G. Unless this Contract is followed without interruption by another Contract between the Parties
22 for substantially the same type and scope of services, at the termination of this Contract for any cause,
23 CONTRACTOR shall return to COUNTY all Equipment purchased with funds paid through this
24 Contract.

25 H. CONTRACTOR shall maintain and administer a sound business program for ensuring the
26 proper use, maintenance, repair, protection, insurance, and preservation of COUNTY Equipment.

27 I. The total cost of all Equipment purchases shall not exceed \$50,000 annually.
28

29 **XIII. FACILITIES, PAYMENTS AND SERVICES**

30 A. CONTRACTOR agrees to provide the services, staffing, facilities, and supplies in accordance
31 with this Contract. COUNTY shall compensate, and authorize, when applicable, said services.
32 CONTRACTOR shall operate continuously throughout the term of this Contract with at least the
33 minimum number and type of staff which meet applicable federal and state requirements, and which are
34 necessary for the provision of the services hereunder.

35 B. In the event that CONTRACTOR is unable to provide the services, staffing, facilities, or
36 supplies as required, ADMINISTRATOR may, at its sole discretion, reduce the Maximum Obligation
37 for the appropriate Period as well as the Total Maximum Obligation. The reduction to the Maximum

1 | Obligation for the appropriate Period as well as the Total Maximum Obligation shall be in an amount
2 | proportionate to the number of days in which CONTRACTOR was determined to be unable to provide
3 | services, staffing, facilities or supplies.

4 |

5 | **XIV. INDEMNIFICATION AND INSURANCE**

6 | A. CONTRACTOR agrees to indemnify, defend with counsel approved in writing by COUNTY,
7 | and hold COUNTY, its elected and appointed officials, officers, employees, agents and those special
8 | districts and agencies for which COUNTY's Board of Supervisors acts as the governing Board
9 | ("COUNTY INDEMNITEES") harmless from any claims, demands or liability of any kind or nature,
10 | including but not limited to personal injury or property damage, arising from or related to the services,
11 | products or other performance provided by CONTRACTOR pursuant to this Contract. If judgment is
12 | entered against CONTRACTOR and COUNTY by a court of competent jurisdiction because of the
13 | concurrent active negligence of COUNTY or COUNTY INDEMNITEES, CONTRACTOR and
14 | COUNTY agree that liability will be apportioned as determined by the court. Neither Party shall
15 | request a jury apportionment.

16 | B. Prior to the provision of services under this Contract, CONTRACTOR agrees to purchase all
17 | required insurance at CONTRACTOR's expense, including all endorsements required herein, necessary
18 | to satisfy COUNTY that the insurance provisions of this Contract have been complied with.
19 | CONTRACTOR agrees to keep such insurance coverage, Certificates of Insurance, and endorsements
20 | on deposit with COUNTY during the entire term of this Contract. In addition, all subcontractors
21 | performing work on behalf of CONTRACTOR pursuant to this Contract shall obtain insurance subject
22 | to the same terms and conditions as set forth herein for CONTRACTOR.

23 | C. CONTRACTOR shall ensure that all subcontractors performing work on behalf of
24 | CONTRACTOR pursuant to this Contract shall be covered under CONTRACTOR's insurance as an
25 | Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for
26 | CONTRACTOR. CONTRACTOR shall not allow subcontractors to work if subcontractors have less
27 | than the level of coverage required by COUNTY from CONTRACTOR under this Contract. It is the
28 | obligation of CONTRACTOR to provide notice of the insurance requirements to every subcontractor
29 | and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of
30 | insurance must be maintained by CONTRACTOR through the entirety of this Contract for inspection by
31 | COUNTY representative(s) at any reasonable time.

32 | D. All SIRs shall be clearly stated on the COI. Any SIR in an amount in excess of fifty thousand
33 | dollars (\$50,000) shall specifically be approved by the CEO/Office of Risk Management upon review of
34 | CONTRACTOR's current audited financial report. If CONTRACTOR's SIR is approved,
35 | CONTRACTOR, in addition to, and without limitation of, any other indemnity provision(s) in this
36 | Contract, agrees to all of the following:

37 | //

1 1. In addition to the duty to indemnify and hold the COUNTY harmless against any and all
2 liability, claim, demand or suit resulting from CONTRACTOR's, its agents, employee's or
3 subcontractor's performance of this Contract, CONTRACTOR shall defend the COUNTY at its sole
4 cost and expense with counsel approved by Board of Supervisors against same; and

5 2. CONTRACTOR's duty to defend, as stated above, shall be absolute and irrespective of any
6 duty to indemnify or hold harmless; and

7 3. The provisions of California Civil Code Section 2860 shall apply to any and all actions to
8 which the duty to defend stated above applies, and the CONTRACTOR's SIR provision shall be
9 interpreted as though the CONTRACTOR was an insurer and the COUNTY was the insured.

10 E. If CONTRACTOR fails to maintain insurance acceptable to the COUNTY for the full term of
11 this Contract, the COUNTY may terminate this Contract.

12 F. **QUALIFIED INSURER**

13 1. The policy or policies of insurance must be issued by an insurer with a minimum rating of
14 A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current
15 edition of the Best's Key Rating Guide/Property-Casualty/United States or ambest.com). It is preferred,
16 but not mandatory, that the insurer be licensed to do business in the state of California (California
17 Admitted Carrier).

18 2. If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of
19 Risk Management retains the right to approve or reject a carrier after a review of the company's
20 performance and financial ratings.

21 G. The policy or policies of insurance maintained by CONTRACTOR shall provide the minimum
22 limits and coverage as set forth below:

<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles (4 passengers or less)	\$1,000,000 per occurrence
Passenger vehicles (7 passengers or less)	\$2,000,000 per occurrence
Passenger vehicles (8 passengers or more)	\$5,000,000 per occurrence
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per occurrence
Professional Liability Insurance	\$1,000,000 per claims made \$1,000,000 aggregate

1 Network Security and Privacy Liability \$1,000,000 per claims made

2 Sexual Misconduct Liability \$1,000,000 per occurrence

3 H. REQUIRED COVERAGE FORMS

4 1. The Commercial General Liability coverage shall be written on ISO form CG 00 01, or a
5 substitute form providing liability coverage at least as broad.

6 2. The Business Automobile Liability coverage shall be written on ISO form CA 00 01,
7 CA 00 05, CA 00 12, CA 00 20, or a substitute form providing coverage at least as broad.

8 I. REQUIRED ENDORSEMENTS

9 1. The Commercial General Liability policy shall contain the following endorsements, which
10 shall accompany the COI:

11 a. An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least
12 as broad naming the *County of Orange, its elected and appointed officials, officers, agents and*
13 *employees* as Additional Insureds, or provide blanket coverage, which will state **AS REQUIRED BY**
14 **WRITTEN AGREEMENT.**

15 b. A primary non-contributing endorsement using ISO form CG 20 01 04 13, or a form at
16 least as broad evidencing that the CONTRACTOR's insurance is primary and any insurance or self-
17 insurance maintained by the County of Orange shall be excess and non-contributing.

18 2. The Network Security and Privacy Liability policy shall contain the following
19 endorsements which shall accompany the COI:

20 a. An Additional Insured endorsement naming the *County of Orange, its elected and*
21 *appointed officials, officers, agents and employees* as Additional Insureds for its vicarious liability.

22 b. A primary and non-contributing endorsement evidencing that the Contractor's
23 insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be
24 excess and non-contributing.

25 J. All insurance policies required by this Contract shall waive all rights of subrogation against the
26 County of Orange, its elected and appointed officials, officers, agents and employees when acting within
27 the scope of their appointment or employment.

28 K. The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving
29 all rights of subrogation against the *County of Orange, its elected and appointed officials,*
30 *officers, agents and employees*, or provide blanket coverage, which will state **AS REQUIRED BY**
31 **WRITTEN AGREEMENT.**

32 L. CONTRACTOR shall notify COUNTY in writing within thirty (30) days of any policy
33 cancellation and within ten (10) days for non-payment of premium and provide a copy of the
34 cancellation notice to COUNTY. Failure to provide written notice of cancellation shall constitute a
35 breach of CONTRACTOR's obligation hereunder and ground for COUNTY to suspend or terminate
36 this Contract.

37 //

1 M. If CONTRACTOR's Professional Liability and/or Network Security & Privacy Liability are
2 "Claims-Made" policies, CONTRACTOR shall agree to maintain coverage for two (2) years following
3 the completion of the Contract.

4 N. The Commercial General Liability policy shall contain a "severability of interests" clause also
5 known as a "separation of insureds" clause (standard in the ISO CG 0001 policy).

6 O. Insurance certificates should be forwarded to the agency/department address listed on the
7 solicitation.

8 P. If the Contractor fails to provide the insurance certificates and endorsements within seven (7)
9 days of notification by CEO/Purchasing or the agency/department purchasing division, award may be
10 made to the next qualified vendor.

11 Q. COUNTY expressly retains the right to require CONTRACTOR to increase or decrease
12 insurance of any of the above insurance types throughout the term of this Contract. Any increase or
13 decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to
14 adequately protect COUNTY.

15 R. COUNTY shall notify CONTRACTOR in writing of changes in the insurance requirements. If
16 CONTRACTOR does not deposit copies of acceptable Certificate of Insurance and endorsements with
17 COUNTY incorporating such changes within thirty (30) calendar days of receipt of such notice, this
18 Contract may be in breach without further notice to CONTRACTOR, and COUNTY shall be entitled to
19 all legal remedies.

20 S. The procuring of such required policy or policies of insurance shall not be construed to limit
21 CONTRACTOR's liability hereunder nor to fulfill the indemnification provisions and requirements of
22 this Contract, nor act in any way to reduce the policy coverage and limits available from the insurer.

23 T. SUBMISSION OF INSURANCE DOCUMENTS

24 1. The COI and endorsements shall be provided to COUNTY as follows:
25 a. Prior to the start date of this Contract.
26 b. No later than the expiration date for each policy.
27 c. Within thirty (30) calendar days upon receipt of written notice by COUNTY regarding
28 changes to any of the insurance requirements as set forth in the Coverage Subparagraph above.

29 2. The COI and endorsements shall be provided to the COUNTY at the address as specified in
30 the Referenced Contract Provisions of this Contract.

31 3. If CONTRACTOR fails to submit the COI and endorsements that meet the insurance
32 provisions stipulated in this Contract by the above specified due dates, ADMINISTRATOR shall have
33 sole discretion to impose one or both of the following:

34 a. ADMINISTRATOR may withhold or delay any or all payments due CONTRACTOR
35 pursuant to any and all Contracts between COUNTY and CONTRACTOR until such time that the
36 required COI and endorsements that meet the insurance provisions stipulated in this Contract are
37 submitted to ADMINISTRATOR.

1 b. CONTRACTOR may be assessed a penalty of one hundred dollars (\$100) for each late
2 COI or endorsement for each business day, pursuant to any and all Contracts between COUNTY and
3 CONTRACTOR, until such time that the required COI and endorsements that meet the insurance
4 provisions stipulated in this Contract are submitted to ADMINISTRATOR.

5 c. If CONTRACTOR is assessed a late penalty, the amount shall be deducted from
6 CONTRACTOR’s monthly invoice.

7 4. In no cases shall assurances by CONTRACTOR, its employees, agents, including any
8 insurance agent, be construed as adequate evidence of insurance. COUNTY will only accept valid COIs
9 and endorsements, or in the interim, an insurance binder as adequate evidence of insurance coverage.

10
11 **XV. INSPECTIONS AND AUDITS**

12 A. ADMINISTRATOR, any authorized representative of COUNTY, any authorized representative
13 of the State of California, the Secretary of the United States Department of Health and Human Services,
14 the Comptroller General of the United States, or any other of their authorized representatives, shall to
15 the extent permissible under applicable law have access to any books, documents, and records, including
16 but not limited to, financial statements, general ledgers, relevant accounting systems, medical and Client
17 records, of CONTRACTOR that are directly pertinent to this Contract, for the purpose of responding to
18 a beneficiary complaint or conducting an audit, review, evaluation, or examination, or making
19 transcripts during the periods of retention set forth in the Records Management and Maintenance
20 Paragraph of this Contract. Such persons may at all reasonable times inspect or otherwise evaluate the
21 services provided pursuant to this Contract, and the premises in which they are provided.

22 B. CONTRACTOR shall actively participate and cooperate with any person specified in
23 Subparagraph A. above in any evaluation or monitoring of the services provided pursuant to this
24 Contract, and shall provide the above mentioned persons adequate office space to conduct such
25 evaluation or monitoring.

26 **C. AUDIT RESPONSE**

27 1. Following an audit report, in the event of non-compliance with applicable laws and
28 regulations governing funds provided through this Contract, COUNTY may terminate this Contract as
29 provided for in the Termination Paragraph or direct CONTRACTOR to immediately implement
30 appropriate corrective action. A CAP shall be submitted to ADMINISTRATOR in writing within thirty
31 (30) calendar days after receiving notice from ADMINISTRATOR.

32 2. If the audit reveals that money is payable from one Party to the other, that is,
33 reimbursement by CONTRACTOR to COUNTY, or payment of sums due from COUNTY to
34 CONTRACTOR, said funds shall be due and payable from one Party to the other within sixty (60)
35 calendar days of receipt of the audit results. If reimbursement is due from CONTRACTOR to
36 COUNTY, and such reimbursement is not received within said sixty (60) calendar days, COUNTY may,
37 //

1 in addition to any other remedies provided by law, reduce any amount owed CONTRACTOR by an
2 amount not to exceed the reimbursement due COUNTY.

3 D. CONTRACTOR shall retain a licensed certified public accountant, who will prepare an annual
4 Single Audit as required by 31 USC 7501 – 7507, as well as its implementing regulations under 2 CFR
5 Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal
6 Awards. CONTRACTOR shall forward the Single Audit to ADMINISTRATOR within fourteen (14)
7 calendar days of receipt.

8 E. CONTRACTOR shall forward to ADMINISTRATOR a copy of any audit report within
9 fourteen (14) calendar days of receipt. Such audit shall include, but not be limited to, management,
10 financial, programmatic or any other type of audit of CONTRACTOR's operations, whether or not the
11 cost of such operation or audit is reimbursed in whole or in part through this Contract

12 **XVI. LICENSES AND LAWS**

13 A. CONTRACTOR, its officers, agents, employees, affiliates, and subcontractors shall, throughout
14 the term of this Contract, maintain all necessary licenses, permits, approvals, certificates, accreditations,
15 waivers, and exemptions necessary for the provision of the services hereunder and required by the laws,
16 regulations and requirements of the United States, the State of California, COUNTY, and all other
17 applicable governmental agencies. CONTRACTOR shall notify ADMINISTRATOR immediately and
18 in writing of its inability to obtain or maintain, irrespective of the pendency of any hearings or appeals,
19 permits, licenses, approvals, certificates, accreditations, waivers and exemptions. Said inability shall be
20 cause for termination of this Contract.

21 B. CONTRACTOR shall comply with all applicable governmental laws, regulations, and
22 requirements as they exist now or may be hereafter amended or changed. These laws, regulations, and
23 requirements shall include, but not be limited to, the following:
24

- 25 1. ARRA of 2009.
- 26 2. Trafficking Victims Protection Act of 2000.
- 27 3. CCC §§56 through 56.37, Confidentiality of Medical Information.
- 28 4. CCC §§1798.80 through 1798.84, Customer Records.
- 29 5. CCC §1798.85, Confidentiality of Social Security Numbers.
- 30 6. CCR, Title 9, Rehabilitative and Developmental Services, Division 4; and Title 22 Social
31 Security.
- 32 7. HSC, Divisions 10.5 Alcohol and Drug Programs and 10.6. Drug and Alcohol Abuse
33 Master Plans.
- 34 8. HSC, §§11839 through 11839.22, Narcotic Treatment Programs.
- 35 9. HSC, §11876, Narcotic Treatment Programs.
- 36 10. HSC, §§123110 through 123149.5, Patient Access to Health Records.
- 37 11. Code of Federal Regulations, Title 42, Public Health.

- 1 12. 2 CFR 230, Cost Principles for Nonprofit Organizations.
- 2 13. 2 CFR 376, Nonprocurement, Debarment and Suspension.
- 3 14. 41 CFR 50, Public Contracts and Property Management.
- 4 15. 42 CFR 2, Confidentiality of Alcohol and Drug Abuse Patient Records.
- 5 16. 42 CFR 54, Charitable choice regulations applicable to states receiving substance abuse
- 6 prevention and treatment block grants and/or projects for assistance in transition from homelessness
- 7 grants.
- 8 17. 45 CFR 93, New Restrictions on Lobbying.
- 9 18. 45 CFR 96.127, Requirements regarding Tuberculosis.
- 10 19. 45 CFR 96.132, Additional Agreements.
- 11 20. 45 CFR 96.135, Restrictions on Expenditure of Grant.
- 12 21. 45 CFR 160, General Administrative Requirements.
- 13 22. 45 CFR 162, Administrative Requirements.
- 14 23. 45 CFR 164, Security and Privacy.
- 15 24. 48 CFR 9.4, Debarment, Suspension, and Ineligibility.
- 16 25. 8 USC §1324 et seq., Immigration Reform and Control Act of 1986.
- 17 26. 31 USC §1352, Limitation on Use of Appropriated Funds to Influence Certain Federal
- 18 Contracting and Financial Transactions.
- 19 27. 42 USC §§285n through 285o, National Institute on Alcohol Abuse and Alcoholism;
- 20 National Institute on Drug Abuse.
- 21 28. 42 USC §§290aa through 290kk-3, Substance Abuse and Mental Health Services
- 22 Administration.
- 23 29. 42 USC §290dd-2, Confidentiality of Records.
- 24 30. 42 USC §1320(a), Uniform reporting systems for health services facilities and
- 25 organizations.
- 26 31. 42 USC §§1320d through 1320d-9, Administrative Simplification.
- 27 32. 42 USC §12101 et seq., The Americans with Disabilities Act of 1990 as amended.
- 28 33. 42 USC §6101 et seq., Age Discrimination Act of 1975.
- 29 34. 42 USC §2000d, Civil Rights Act of 1964.
- 30 35. 31 USC 7501 – 7507, as well as its implementing regulations under 2 CFR Part 200,
- 31 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- 32 36. U.S. Department of Health and Human Services, National Institutes of Health (NIH),
- 33 Grants Policy Statement (10/13).
- 34 37. Fact Sheet Early and Periodic Screening, Diagnosis and Treatment (EPSDT) for Co-
- 35 Occurring Disorders, Mental Health Services Oversight and Accountability Commission, 1/17/08.
- 36 38. State of California, Department of Alcohol and Drug Programs Audit Assistance Guide
- 37 Manual.

1 39. State of California, Department of Alcohol and Drug Programs, Alcohol and/or Other Drug
2 Program Certification Standards, March 2004.

3 40. CCR Title 22, §§70751(c), 71551(c), 73543(a), 74731(d), 75055(a), 75343(a), and
4 77143(a).

5 41. State of California, Department of Health Care Services ASRS Manual.

6 42. State of California, Department of Health Care Services DPFS Manual.

7 43. HSC §123145.

8 44. Title 45 CFR, §164.501; §164.524; §164.526; §164.530(c) and (j).

9
10 **XVII. LITERATURE, ADVERTISEMENTS, AND SOCIAL MEDIA**

11 A. Any written information or literature, including educational or promotional materials,
12 distributed by CONTRACTOR to any person or organization for purposes directly or indirectly related
13 to this Contract must be approved at least thirty (30) days in advance and in writing by
14 ADMINISTRATOR before distribution. For the purposes of this Contract, distribution of written
15 materials shall include, but not be limited to, pamphlets, brochures, flyers, newspaper or magazine ads,
16 and electronic media such as the Internet.

17 B. Any advertisement through radio, television broadcast, or the Internet, for educational or
18 promotional purposes, made by CONTRACTOR for purposes directly or indirectly related to this
19 Contract must be approved in advance at least thirty (30) days and in writing by ADMINISTRATOR.

20 C. If CONTRACTOR uses social media (such as Facebook, Twitter, YouTube or other publicly
21 available social media sites) in support of the services described within this Contract, CONTRACTOR
22 shall develop social media policies and procedures and have them available to ADMINISTRATOR
23 upon reasonable notice. CONTRACTOR shall inform ADMINISTRATOR of all forms of social media
24 used to either directly or indirectly support the services described within this Contract. CONTRACTOR
25 shall comply with COUNTY Social Media Use Policy and Procedures as they pertain to any social
26 media developed in support of the services described within this Contract. CONTRACTOR shall also
27 include any required funding statement information on social media when required by
28 ADMINISTRATOR.

29 D. Any information as described in Subparagraphs A. and B. above shall not imply endorsement
30 by COUNTY, unless ADMINISTRATOR consents thereto in writing.

31 E. CONTRACTOR shall also clearly explain through these materials that there shall be no
32 unlawful use of drugs or alcohol associated with the services provided pursuant to this Contract, as
33 specified in HSC, §11999-11999.3.

34
35 **XVIII. MAXIMUM OBLIGATION**

36 A. The Total Maximum Obligation of COUNTY for services provided in accordance with this
37 Contract, and the separate Maximum Obligations for each period under this Contract, are as specified in

1 the Referenced Contract Provisions of this Contract, except as allowed for in Subparagraph B. below.

2 B. ADMINISTRATOR may amend the Maximum Obligation by an amount not to exceed ten
3 percent (10%) of the first year of funding for this Contract.

4 5 **XIX. MINIMUM WAGE LAWS**

6 A. Pursuant to the United States of America Fair Labor Standards Act of 1938, as amended, and
7 State of California Labor Code, §1178.5, CONTRACTOR shall pay no less than the greater of the
8 federal or California Minimum Wage to all its employees that directly or indirectly provide services
9 pursuant to this Contract, in any manner whatsoever. CONTRACTOR shall require and verify that all
10 its contractors or other persons providing services pursuant to this Contract on behalf of
11 CONTRACTOR also pay their employees no less than the greater of the federal or California Minimum
12 Wage.

13 B. CONTRACTOR shall comply and verify that its contractors comply with all other federal and
14 State of California laws for minimum wage, overtime pay, record keeping, and child labor standards
15 pursuant to providing services pursuant to this Contract.

16 C. Notwithstanding the minimum wage requirements provided for in this clause, CONTRACTOR,
17 where applicable, shall comply with the prevailing wage and related requirements, as provided for in
18 accordance with the provisions of Article 2 of Chapter 1, Part 7, Division 2 of the Labor Code of the
19 State of California (§§1770, et seq.), as it now exists or may hereafter be amended.

20 21 **XX. NONDISCRIMINATION**

22 **A. EMPLOYMENT**

23 1. During the term of this Contract, CONTRACTOR and its Covered Individuals (as defined
24 in the "Compliance" paragraph of this Contract) shall not unlawfully discriminate against any employee
25 or applicant for employment because of his/her race, religious creed, color, national origin, ancestry,
26 physical disability, mental disability, medical condition, genetic information, marital status, sex, gender,
27 gender identity, gender expression, age, sexual orientation, or military and veteran status. Additionally,
28 during the term of this Contract, CONTRACTOR and its Covered Individuals shall require in its
29 subcontracts that subcontractors shall not unlawfully discriminate against any employee or applicant for
30 employment because of his/her race, religious creed, color, national origin, ancestry, physical disability,
31 mental disability, medical condition, genetic information, marital status, sex, gender, gender identity,
32 gender expression, age, sexual orientation, or military and veteran status.

33 2. CONTRACTOR and its Covered Individuals shall not discriminate against employees or
34 applicants for employment in the areas of employment, promotion, demotion or transfer; recruitment or
35 recruitment advertising, layoff or termination; rate of pay or other forms of compensation; and selection
36 for training, including apprenticeship.

37 //

1 3. CONTRACTOR shall not discriminate between employees with spouses and employees
2 with domestic partners, or discriminate between domestic partners and spouses of those employees, in
3 the provision of benefits.

4 4. CONTRACTOR shall post in conspicuous places, available to employees and applicants for
5 employment, notices from ADMINISTRATOR and/or the United States Equal Employment
6 Opportunity Commission setting forth the provisions of the EOC.

7 5. All solicitations or advertisements for employees placed by or on behalf of
8 CONTRACTOR and/or subcontractor shall state that all qualified applicants will receive consideration
9 for employment without regard to race, religious creed, color, national origin, ancestry, physical
10 disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender
11 identity, gender expression, age, sexual orientation, or military and veteran status. Such requirements
12 shall be deemed fulfilled by use of the term EOE.

13 6. Each labor union or representative of workers with which CONTRACTOR and/or
14 subcontractor has a collective bargaining agreement or other contract or understanding must post a
15 notice advising the labor union or workers' representative of the commitments under this
16 Nondiscrimination Paragraph and shall post copies of the notice in conspicuous places, available to
17 employees and applicants for employment.

18 B. SERVICES, BENEFITS AND FACILITIES – CONTRACTOR and/or subcontractor shall not
19 discriminate in the provision of services, the allocation of benefits, or in the accommodation in facilities
20 on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental
21 disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender
22 expression, age, sexual orientation, or military and veteran status in accordance with Title IX of the
23 Education Amendments of 1972 as they relate to 20 USC §1681 - §1688; Title VI of the Civil Rights
24 Act of 1964 (42 USC §2000d); the Age Discrimination Act of 1975 (42 USC §6101); Title 9, Division
25 4, Chapter 6, Article 1 (§10800, et seq.) of the CCR; and Title II of the Genetic Information
26 Nondiscrimination Act of 2008, 42 USC 2000ff, et seq. as applicable, and all other pertinent rules and
27 regulations promulgated pursuant thereto, and as otherwise provided by state law and regulations, as all
28 may now exist or be hereafter amended or changed. For the purpose of this Nondiscrimination
29 paragraph, discrimination includes, but is not limited to the following based on one or more of the
30 factors identified above:

- 31 1. Denying a Client or potential Client any service, benefit, or accommodation.
- 32 2. Providing any service or benefit to a Client which is different or is provided in a different
33 manner or at a different time from that provided to other Clients.
- 34 3. Restricting a Client in any way in the enjoyment of any advantage or privilege enjoyed by
35 others receiving any service and/or benefit.
- 36 4. Treating a Client differently from others in satisfying any admission requirement or

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1 condition, or eligibility requirement or condition, which individuals must meet in order to be provided
2 any service and/or benefit.

3 5. Assignment of times or places for the provision of services.

4 C. COMPLAINT PROCESS – CONTRACTOR shall establish procedures for advising all Clients
5 through a written statement that CONTRACTOR’s and/or subcontractor’s Clients may file all
6 complaints alleging discrimination in the delivery of services with CONTRACTOR, subcontractor, and
7 ADMINISTRATOR or the U.S. Department of Health and Human Services’ OCR.

8 1. Whenever possible, problems shall be resolved at the point of service. CONTRACTOR
9 shall establish an internal problem resolution process for Clients not able to resolve such problems at the
10 point of service. Clients may initiate a grievance or complaint directly with CONTRACTOR either
11 orally or in writing.

12 a. COUNTY shall establish a formal resolution and grievance process in the event
13 grievance is not able to be resolved at point of service.

14 2. Within the time limits procedurally imposed, the complainant shall be notified in writing as
15 to the findings regarding the alleged complaint and, if not satisfied with the decision, has the right to
16 request a State Fair Hearing.

17 D. PERSONS WITH DISABILITIES – CONTRACTOR and/or subcontractor agree to comply
18 with the provisions of §504 of the Rehabilitation Act of 1973, as amended, (29 USC 794 et seq., as
19 implemented in 45 CFR 84.1 et seq.), and the Americans with Disabilities Act of 1990 as amended (42
20 USC 12101 et seq.; as implemented in 29 CFR 1630), as applicable, pertaining to the prohibition of
21 discrimination against qualified persons with disabilities in all programs or activities, and if applicable,
22 as implemented in Title 45, CFR, §84.1 et seq., as they exist now or may be hereafter amended together
23 with succeeding legislation.

24 E. RETALIATION – Neither CONTRACTOR nor subcontractor, nor its employees or agents shall
25 intimidate, coerce or take adverse action against any person for the purpose of interfering with rights
26 secured by federal or state laws, or because such person has filed a complaint, certified, assisted or
27 otherwise participated in an investigation, proceeding, hearing or any other activity undertaken to
28 enforce rights secured by federal or state law.

29 F. In the event of non-compliance with this paragraph or as otherwise provided by federal and
30 state law, this Contract may be canceled, terminated or suspended in whole or in part and
31 CONTRACTOR or subcontractor may be declared ineligible for further contracts involving federal,
32 state or COUNTY funds.

34 **XXI. NOTICES**

35 A. Unless otherwise specified, all notices, claims, correspondence, reports and/or statements
36 authorized or required by this Contract shall be effective:

37 1. When written and deposited in the United States mail, first class postage prepaid and

1 addressed as specified in the Referenced Contract Provisions of this Contract or as otherwise directed by
2 ADMINISTRATOR;

3 2. When faxed, transmission confirmed;

4 3. When sent by Email; or

5 4. When accepted by U.S. Postal Service Express Mail, Federal Express, United Parcel
6 Service, or any other expedited delivery service.

7 B. Termination Notices shall be addressed as specified in the Referenced Contract Provisions of
8 this Contract or as otherwise directed by ADMINISTRATOR and shall be effective when faxed,
9 transmission confirmed, or when accepted by U.S. Postal Service Express Mail, Federal Express, United
10 Parcel Service, or any other expedited delivery service.

11 C. CONTRACTOR shall notify ADMINISTRATOR, in writing, within twenty-four (24) hours of
12 becoming aware of any occurrence of a serious nature, which may expose COUNTY to liability. Such
13 occurrences shall include, but not be limited to, accidents, injuries, or acts of negligence, or loss or
14 damage to any COUNTY property in possession of CONTRACTOR.

15 D. For purposes of this Contract, any notice to be provided by COUNTY may be given by
16 ADMINISTRATOR.

17 18 **XXII. NOTIFICATION OF DEATH**

19 A. Upon becoming aware of the death of any person served pursuant to this Contract,
20 CONTRACTOR shall immediately notify ADMINISTRATOR.

21 B. All Notifications of Death provided to ADMINISTRATOR by CONTRACTOR shall contain
22 the name of the deceased, the date and time of death, the nature and circumstances of the death, and the
23 name(s) of CONTRACTOR's officers or employees with knowledge of the incident.

24 1. TELEPHONE NOTIFICATION – CONTRACTOR shall notify ADMINISTRATOR by
25 telephone immediately upon becoming aware of the death due to non-terminal illness of any person
26 served pursuant to this Contract; notice need only be given during normal business hours.

27 2. WRITTEN NOTIFICATION

28 a. NON-TERMINAL ILLNESS – CONTRACTOR shall hand deliver, fax, and/or send
29 via encrypted email to ADMINISTRATOR a written report within sixteen (16) hours after becoming
30 aware of the death due to non-terminal illness of any person served pursuant to this Contract.

31 b. TERMINAL ILLNESS – CONTRACTOR shall notify ADMINISTRATOR by written
32 report hand delivered, faxed, sent via encrypted email, within forty-eight (48) hours of becoming aware
33 of the death due to terminal illness of any person served pursuant to this Contract.

34 c. When notification via encrypted email is not possible or practical CONTRACTOR may
35 hand deliver or fax to a known number said notification.

36 C. If there are any questions regarding the cause of death of any person served pursuant to this
37 Contract who was diagnosed with a terminal illness, or if there are any unusual circumstances related to

1 the death, CONTRACTOR shall immediately notify ADMINISTRATOR in accordance with this
2 Notification of Death Paragraph.

3
4 **XXIII. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS**

5 A. CONTRACTOR shall notify ADMINISTRATOR of any public event or meeting funded in
6 whole or in part by the COUNTY, except for those events or meetings that are intended solely to serve
7 clients or occur in the normal course of business.

8 B. CONTRACTOR shall notify ADMINISTRATOR at least thirty (30) business days in advance
9 of any applicable public event or meeting. The notification must include the date, time, duration,
10 location and purpose of the public event or meeting. Any promotional materials or event related flyers
11 must be approved by ADMINISTRATOR prior to distribution.

12
13 **XXIV. PATIENT'S RIGHTS**

14 A. CONTRACTOR shall post the current California Department of Mental Health Patients' Rights
15 poster as well as the Orange County HCA Mental Health Plan Grievance and Appeals poster in
16 locations readily available to Clients and staff and have Grievance and Appeal forms in the threshold
17 languages and envelopes readily accessible to Clients to take without having to request it on the unit.

18 B. In addition to those processes provided by ADMINISTRATOR, CONTRACTOR shall have an
19 internal grievance processes approved by ADMINISTRATOR, to which the beneficiary shall have
20 access.

21 1. CONTRACTOR's grievance processes shall incorporate COUNTY's grievance, patients'
22 rights, and/or utilization management guidelines and procedures. The patient has the right to utilize
23 either or both grievance process simultaneously in order to resolve their dissatisfaction.

24 2. Title IX Rights Advocacy. This process may be initiated by a Client who registers a
25 statutory rights violation or a denial or abuse complaint with the County Patients' Rights Office. The
26 Patients' Rights office shall investigate the complaint, and Title IX grievance procedures shall apply,
27 which involve ADMINISTRATOR'S Director of Behavioral Health Care and the State Patients' Rights
28 Office.

29 C. The parties agree that Clients have recourse to initiate an expression of dissatisfaction to
30 CONTRACTOR, appeal to the County Patients' Rights Office, file a grievance, and file a Title IX
31 complaint. The Patients' Advocate shall advise and assist the Client, investigate the cause of the
32 grievance, and attempt to resolve the matter.

33 D. No provision of this Contract shall be construed as to replacing or conflicting with the duties of
34 County Patients' Rights Office pursuant to Welfare and Institutions Code Section 5500.

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XXV. RECORDS MANAGEMENT AND MAINTENANCE

A. CONTRACTOR, its officers, agents, employees and subcontractors shall, throughout the term of this Contract, prepare, maintain and manage records appropriate to the services provided and in accordance with this Contract and all applicable requirements.

1. CONTRACTOR shall maintain records that are adequate to substantiate the services for which claims are submitted for reimbursement under this Contract and the charges thereto. Such records shall include, but not be limited to, individual patient charts and utilization review records.

2. CONTRACTOR shall keep and maintain records of each service rendered to each MSN Patient, the identity of the MSN Patient to whom the service was rendered, the date the service was rendered, and such additional information as ADMINISTRATOR or DHCS may require.

3. CONTRACTOR shall maintain books, records, documents, accounting procedures and practices, and other evidence sufficient to reflect properly all direct and indirect cost of whatever nature claimed to have been incurred in the performance of this Contract and in accordance with Medicare principles of reimbursement and GAAP.

4. CONTRACTOR shall ensure the maintenance of medical records required by §70747 through and including §70751 of the CCR, as they exist now or may hereafter be amended, the medical necessity of the service, and the quality of care provided. Records shall be maintained in accordance with §51476 of Title 22 of the CCR, as it exists now or may hereafter be amended.

B. CONTRACTOR shall implement and maintain administrative, technical and physical safeguards to ensure the privacy of PHI and prevent the intentional or unintentional use or disclosure of PHI in violation of the HIPAA, federal and state regulations. CONTRACTOR shall mitigate to the extent practicable, the known harmful effect of any use or disclosure of PHI made in violation of federal or state regulations and/or COUNTY policies.

C. CONTRACTOR’s participant, client, and/or patient records shall be maintained in a secure manner. CONTRACTOR shall maintain participant, client, and/or patient records and must establish and implement written record management procedures.

D. CONTRACTOR shall retain all financial records for a minimum of ten (10) years from the termination of the contract, unless a longer period is required due to legal proceedings such as litigations and/or settlement of claims.

E. CONTRACTOR shall retain all client and/or patient medical records for ten (10) years following discharge of the participant, client and/or patient.

F. CONTRACTOR shall make records pertaining to the costs of services, participant fees, charges, billings, and revenues available at one (1) location within the limits of the County of Orange. If CONTRACTOR is unable to meet the record location criteria above, ADMINISTRATOR may provide written approval to CONTRACTOR to maintain records in a single location, identified by CONTRACTOR.

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1 G. CONTRACTOR shall notify ADMINISTRATOR of any PRA requests related to, or arising out
2 of, this Contract, within forty-eight (48) hours. CONTRACTOR shall provide ADMINISTRATOR all
3 information that is requested by the PRA request.

4 H. CONTRACTOR shall ensure all HIPAA DRS requirements are met. HIPAA requires that
5 clients, participants and/or patients be provided the right to access or receive a copy of their DRS and/or
6 request addendum to their records. Title 45 CFR §164.501, defines DRS as a group of records
7 maintained by or for a covered entity that is:

8 1. The medical records and billing records about individuals maintained by or for a covered
9 health care provider;

10 2. The enrollment, payment, claims adjudication, and case or medical management record
11 systems maintained by or for a health plan; or

12 3. Used, in whole or in part, by or for the covered entity to make decisions about individuals.

13 I. CONTRACTOR may retain client, and/or patient documentation electronically in accordance
14 with the terms of this Contract and common business practices. If documentation is retained
15 electronically, CONTRACTOR shall, in the event of an audit or site visit:

16 1. Have documents readily available within twenty-four (24) hour notice of a scheduled audit
17 or site visit.

18 2. Provide auditor or other authorized individuals access to documents via a computer
19 terminal.

20 3. Provide auditor or other authorized individuals a hardcopy printout of documents, if
21 requested.

22 J. CONTRACTOR shall ensure compliance with requirements pertaining to the privacy and
23 security of PII and/or PHI. CONTRACTOR shall, upon discovery of a Breach of privacy and/or
24 security of PII and/or PHI by CONTRACTOR, notify federal and/or state authorities as required by law
25 or regulation, and copy ADMINISTRATOR on such notifications.

26 K. CONTRACTOR may be required to pay any costs associated with a Breach of privacy and/or
27 security of PII and/or PHI, including but not limited to the costs of notification. CONTRACTOR shall
28 pay any and all such costs arising out of a Breach of privacy and/or security of PII and/or PHI.

30 **XXVI. RESEARCH AND PUBLICATION**

31 A. CONTRACTOR shall not utilize information and/or data received from COUNTY, or arising
32 out of, or developed, as a result of this Contract for the purpose of personal or professional research, or
33 for publication.

35 **XXVII. REVENUE**

36 A. CLIENT FEES – CONTRACTOR shall charge, unless waived by ADMINISTRATOR, a fee to
37 Clients to whom billable services, other than those amounts reimbursed by Medicare, Medi-Cal or other

1 third party health plans, are provided pursuant to this Contract, their estates and responsible relatives,
2 according to their ability to pay as determined by the State Department of Health Care Services'
3 "Uniform Method of Determining Ability to Pay" procedure or by any other payment procedure as
4 approved in advance, and in writing by ADMINISTRATOR; and in accordance with Title 9 of the CCR.
5 Such fee shall not exceed the actual cost of services provided. No Client shall be denied services
6 because of an inability to pay.

7 B. THIRD-PARTY REVENUE – CONTRACTOR shall make every reasonable effort to obtain all
8 available third-party reimbursement for which persons served pursuant to this Contract may be eligible.
9 Charges to insurance carriers shall be on the basis of CONTRACTOR's usual and customary charges.
10 CONTRACTOR must use the third-party billing and reimbursement administrator designated by
11 ADMINISTRATOR during the term of this Contract, if any, as directed by ADMINISTRATOR.

12 C. PROCEDURES – CONTRACTOR shall maintain internal financial controls which adequately
13 ensure proper billing and collection procedures. CONTRACTOR's procedures shall specifically
14 provide for the identification of delinquent accounts and methods for pursuing such accounts.
15 CONTRACTOR shall provide ADMINISTRATOR, monthly, a written report specifying the current
16 status of fees which are billed, collected, transferred to a collection agency, or deemed by
17 CONTRACTOR to be uncollectible.

18 **XXVIII. SEVERABILITY**

19
20 If a court of competent jurisdiction declares any provision of this Contract or application thereof to
21 any person or circumstances to be invalid or if any provision of this Contract contravenes any federal,
22 state or county statute, ordinance, or regulation, the remaining provisions of this Contract or the
23 application thereof shall remain valid, and the remaining provisions of this Contract shall remain in full
24 force and effect, and to that extent the provisions of this Contract are severable.

25 **XXIX. SPECIAL PROVISIONS**

26
27 A. CONTRACTOR shall not use the funds provided by means of this Contract for the following
28 purposes:

- 29 1. Making cash payments to intended recipients of services through this Contract.
- 30 2. Lobbying any governmental agency or official. CONTRACTOR shall file all certifications
31 and reports in compliance with this requirement pursuant to Title 31, USC, §1352 (e.g., limitation on
32 use of appropriated funds to influence certain federal contracting and financial transactions).
- 33 3. Fundraising.
- 34 4. Purchase of gifts, meals, entertainment, awards, or other personal expenses for
35 CONTRACTOR's staff, volunteers, interns, consultants, subcontractors, and members of the Board of
36 Directors or governing body.

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1 5. Reimbursement of CONTRACTOR's members of the Board of Directors or governing
2 body for expenses or services.

3 6. Making personal loans to CONTRACTOR's staff, volunteers, interns, consultants,
4 subcontractors, and members of the Board of Directors or governing body, or its designee or authorized
5 agent, or making salary advances or giving bonuses to CONTRACTOR's staff.

6 7. Paying an individual salary or compensation for services at a rate in excess of the current
7 Level I of the Executive Salary Schedule as published by the OPM. The OPM Executive Salary
8 Schedule may be found at www.opm.gov.

9 8. Severance pay for separating employees.

10 9. Paying rent and/or lease costs for a facility prior to the facility meeting all required building
11 codes and obtaining all necessary building permits for any associated construction.

12 10. Purchasing or improving land, including constructing or permanently improving any
13 building or facility, except for tenant improvements.

14 11. Satisfying any expenditure of non-federal funds as a condition for the receipt of federal
15 funds (matching).

16 12. Contracting or subcontracting with any entity other than an individual or nonprofit entity.

17 13. Producing any information that promotes responsible use, if the use is unlawful, of drugs or
18 alcohol.

19 14. Promoting the legalization of any drug or other substance included in Schedule 1 of the
20 Controlled Substance Act (21 USC 812).

21 15. Distributing or aiding in the distribution of sterile needles or syringes for the hypodermic
22 injection of any illegal drug.

23 16. Assisting, promoting, or deterring union organizing.

24 17. Providing inpatient hospital services or purchasing major medical equipment.

25 B. Unless otherwise specified in advance and in writing by ADMINISTRATOR, CONTRACTOR
26 shall not use the funds provided by means of this Contract for the following purposes:

27 1. Funding travel or training (excluding mileage or parking).

28 2. Making phone calls outside of the local area unless documented to be directly for the
29 purpose of Client care.

30 3. Payment for grant writing, consultants, certified public accounting, or legal services.

31 4. Purchase of artwork or other items that are for decorative purposes and do not directly
32 contribute to the quality of services to be provided pursuant to this Contract.

33 5. Purchase of gifts, meals, entertainment, awards, or other personal expenses for
34 CONTRACTOR's Clients.

35 C. Neither Party shall be responsible for delays or failures in performance resulting from acts
36 beyond the control of the affected Party. Such acts shall include, but not be limited to, acts of God, fire,
37 //

1 flood, earthquake, other natural disaster, nuclear accident, strike, lockout, riot, freight, embargo, public
2 related utility, or governmental statutes or regulations imposed after the fact.

4 **XXX. STATUS OF CONTRACTOR**

5 CONTRACTOR is, and shall at all times be deemed to be, an independent contractor and shall be
6 wholly responsible for the manner in which it performs the services required of it by the terms of this
7 Contract. CONTRACTOR is entirely responsible for compensating staff, subcontractors, and
8 consultants employed by CONTRACTOR. This Contract shall not be construed as creating the
9 relationship of employer and employee, or principal and agent, between COUNTY and CONTRACTOR
10 or any of CONTRACTOR's employees, agents, consultants, volunteers, interns, or subcontractors.
11 CONTRACTOR assumes exclusively the responsibility for the acts of its employees, agents,
12 consultants, volunteers, interns, or subcontractors as they relate to the services to be provided during the
13 course and scope of their employment. CONTRACTOR, its agents, employees, consultants, volunteers,
14 interns, or subcontractors, shall not be entitled to any rights or privileges of COUNTY's employees and
15 shall not be considered in any manner to be COUNTY's employees.

16 **XXXI. TERM**

17
18 A. The term of this Contract shall commence as specified in the Referenced Contract Provisions of
19 this Contract or the execution date, whichever is later. This Contract shall terminate as specified in the
20 Referenced Contract Provisions of this Contract unless otherwise sooner terminated as provided in this
21 Contract. CONTRACTOR shall be obligated to perform such duties as would normally extend beyond
22 this term, including but not limited to, obligations with respect to confidentiality, indemnification,
23 audits, reporting, and accounting.

24 B. Any administrative duty or obligation to be performed pursuant to this Contract on a weekend
25 or holiday may be performed on the next regular business day.

26 **XXXII. TERMINATION**

27
28 A. CONTRACTOR shall be responsible for meeting all programmatic and administrative
29 contracted objectives and requirements as indicated in this Contract. CONTRACTOR shall be subject
30 to the issuance of a CAP for the failure to perform to the level of contracted objectives, continuing to not
31 meet goals and expectations, and/or for non-compliance. If CAPs are not completed within timeframe
32 as determined by ADMINISTRATOR notice, payments may be reduced or withheld until CAP is
33 resolved and/or the Contract could be terminated.

34 B. COUNTY may terminate this Contract immediately, upon written notice, on the occurrence of
35 any of the following events:

- 36 1. The loss by CONTRACTOR of legal capacity.
- 37 2. Cessation of services.

1 3. The delegation or assignment of CONTRACTOR's services, operation or administration to
2 another entity without the prior written consent of COUNTY.

3 4. The neglect by any physician or licensed person employed by CONTRACTOR of any duty
4 required pursuant to this Contract.

5 5. The loss of accreditation or any license required by the Licenses and Laws Paragraph of
6 this Contract.

7 6. The continued incapacity of any physician or licensed person to perform duties required
8 pursuant to this Contract.

9 7. Unethical conduct or malpractice by any physician or licensed person providing services
10 pursuant to this Contract; provided, however, COUNTY may waive this option if CONTRACTOR
11 removes such physician or licensed person from serving persons treated or assisted pursuant to this
12 Contract.

13 C. CONTINGENT FUNDING

14 1. Any obligation of COUNTY under this Contract is contingent upon the following:

15 a. The continued availability of federal, state and county funds for reimbursement of
16 COUNTY's expenditures, and

17 b. Inclusion of sufficient funding for the services hereunder in the applicable budget(s)
18 approved by the Board of Supervisors.

19 2. In the event such funding is subsequently reduced or terminated, COUNTY may suspend,
20 terminate or renegotiate this Contract upon thirty (30) calendar days' written notice given
21 CONTRACTOR. If COUNTY elects to renegotiate this Contract due to reduced or terminated funding,
22 CONTRACTOR shall not be obligated to accept the renegotiated terms.

23 D. In the event this Contract is suspended or terminated prior to the completion of the term as
24 specified in the Referenced Contract Provisions of this Contract, ADMINISTRATOR may, at its
25 sole discretion, reduce the Not To Exceed Amount of this Contract to be consistent with the reduced
26 term of the Contract.

27 E. In the event this Contract is terminated CONTRACTOR shall do the following:

28 1. Comply with termination instructions provided by ADMINISTRATOR in a manner which
29 is consistent with recognized standards of quality care and prudent business practice.

30 2. Obtain immediate clarification from ADMINISTRATOR of any unsettled issues of contract
31 performance during the remaining contract term.

32 3. Until the date of termination, continue to provide the same level of service required by this
33 Contract.

34 4. If Clients are to be transferred to another facility for services, furnish ADMINISTRATOR,
35 upon request, all Client information and records deemed necessary by ADMINISTRATOR to effect an
36 orderly transfer.

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1 5. Assist ADMINISTRATOR in effecting the transfer of Clients in a manner consistent with
2 Client's best interests.

3 6. If records are to be transferred to COUNTY, pack and label such records in accordance
4 with directions provided by ADMINISTRATOR.

5 7. Return to COUNTY, in the manner indicated by ADMINISTRATOR, any equipment and
6 supplies purchased with funds provided by COUNTY.

7 8. To the extent services are terminated, cancel outstanding commitments covering the
8 procurement of materials, supplies, equipment, and miscellaneous items, as well as outstanding
9 commitments which relate to personal services. With respect to these canceled commitments,
10 CONTRACTOR shall submit a written plan for settlement of all outstanding liabilities and all claims
11 arising out of such cancellation of commitment which shall be subject to written approval of
12 ADMINISTRATOR.

13 9. Provide written notice of termination of services to each Client being served under this
14 Contract, within fifteen (15) calendar days of receipt of termination notice. A copy of the notice of
15 termination of services must also be provided to ADMINISTRATOR within the fifteen (15) calendars
16 day period.

17 F. COUNTY may terminate this Contract, without cause, upon thirty (30) calendar days' written
18 notice. The rights and remedies of COUNTY provided in this Termination Paragraph shall not be
19 exclusive, and are in addition to any other rights and remedies provided by law or under this Contract.

20
21 **XXXIII. THIRD PARTY BENEFICIARY**

22 Neither Party hereto intends that this Contract shall create rights hereunder in third parties
23 including, but not limited to, any subcontractors or any Clients provided services pursuant to this
24 Contract.

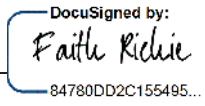
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26 **XXXIV. WAIVER OF DEFAULT OR BREACH**

27 Waiver by COUNTY of any default by CONTRACTOR shall not be considered a waiver of any
28 subsequent default. Waiver by COUNTY of any breach by CONTRACTOR of any provision of this
29 Contract shall not be considered a waiver of any subsequent breach. Waiver by COUNTY of any
30 default or any breach by CONTRACTOR shall not be considered a modification of the terms of this
31 Contract.

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1 IN WITNESS WHEREOF, the parties have executed this Contract, in the County of Orange, State
2 of California.

3
4 TELECARE CORPORATION

5
6 BY:  _____ DATED: 10/13/2020
7
8

9 TITLE: Senior VP for Development
10

11
12 BY: _____ DATED: _____

13
14 TITLE: _____
15

16
17 COUNTY OF ORANGE

18
19
20 BY: _____ DATED: _____

21 HEALTH CARE AGENCY
22

23
24
25 APPROVED AS TO FORM
26 OFFICE OF THE COUNTY COUNSEL
27 ORANGE COUNTY, CALIFORNIA
28

29 BY:  _____ DATED: 10/13/2020
30
31 DEPUTY

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35 If the contracting party is a corporation, two (2) signatures are required: one (1) signature by the Chairman of the Board, the
36 President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer
37 or any Assistant Treasurer. If the contract is signed by one (1) authorized individual only, a copy of the corporate resolution
or by-laws whereby the Board of Directors has empowered said authorized individual to act on its behalf by his or her
signature alone is required by ADMINISTRATOR.

EXHIBIT A
TO CONTRACT FOR PROVISION OF
SOBERING CENTER SERVICES
BETWEEN
COUNTY OF ORANGE
AND
TELECARE CORPORATION

NOVEMBER 1, 2020 THROUGH JUNE 30, 2023

I. COMMON TERMS AND DEFINITIONS

A. The parties agree to the following terms and definitions, and to those terms and definitions which, for convenience, are set forth elsewhere in this Contract.

1. ASAM Criteria is a comprehensive set of guidelines for placement, continued stay and transfer/discharge of patients with addiction and co-occurring conditions.

2. Client means a person who has a substance use disorder, for whom a COUNTY approved intake and admission for services have been completed pursuant to this Contract.

3. Co-Occurring means when a person has at least one substance use disorder and one mental health disorder that can be diagnosed independently of the other.

4. CSU is a psychiatric crisis stabilization program that operates 24 hours a day that serves Orange County residents, aged 18 and older, who are experiencing a psychiatric crisis and need immediate evaluation. Clients receive a thorough psychiatric evaluation, crisis stabilization treatment, and referral to the appropriate level of continuing care. As a designated outpatient facility, the CSU may evaluate and treat Clients for no longer than 23 hours.

5. Intake means the initial face-to-face meeting between a Client and CONTRACTOR staff in which specific information about the Client is gathered standard admission forms pursuant to this Contract.

6. IRIS means a collection of applications and databases that serve the needs of programs within HCA and includes functionality such as registration and scheduling, laboratory information system, invoices and reporting capabilities, compliance with regulatory requirements, electronic medical records and other relevant applications.

7. Linkage means connecting Client to ancillary services such as outpatient and/or Residential Treatment and supportive services which may include self-help groups, social services, rehabilitation services, vocational services, job training services, or other appropriate services.

8. Medication means those medications that are needed to maintain Client’s health, and without which there could be medical or mental health consequences to the Client.

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1 9. Self-Help Meetings means a non-professional, peer participatory meeting formed by people
2 with a common problem or situation offering mutual support to each other towards a goal or healing or
3 recovery.

4 10. SUD means a condition in which the use of one or more substances leads to a clinically
5 significant impairment or distress per the DSM-5.

6 11. Token means the security device which allows an individual user to access IRIS.

7 B. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
8 Common Terms and Definitions Paragraph of this Exhibit A to the Contract.

9 10 **II. BUDGET**

11 A. COUNTY shall pay CONTRACTOR in accordance with the Payments Paragraph of this
12 Exhibit A to the Contract and the following budget, which is set forth for informational purposes only
13 and may be adjusted by mutual agreement, in writing, by ADMINISTRATOR and CONTRACTOR.

	<u>PERIOD ONE</u>	<u>PERIOD TWO</u>	<u>PERIOD THREE</u>	<u>TOTAL</u>
ADMINISTRATIVE COSTS				
Indirect Costs	\$ 63,687	\$ 127,374	\$ 127,374	\$ 318,435
SUBTOTAL ADMINISTRATIVE	\$ 63,687	\$ 127,374	\$ 127,374	\$ 318,435
PROGRAM COSTS				
Salaries	\$ 256,352	\$ 512,704	\$ 512,704	\$1,281,760
Benefits	76,906	153,811	153,811	384,528
Services & Supplies	171,890	348,613	353,592	874,095
Start-Up Costs	82,114	0	0	82,114
SUBTOTAL PROGRAM	\$ 587,262	\$ 1,015,128	\$ 1,020,107	\$2,622,497
TOTAL COSTS	\$ 650,949	\$ 1,142,502	\$ 1,147,481	\$2,940,932
REVENUE				
SABG	650,949	1,142,502	1,147,481	2,940,932
TOTAL REVENUE	\$ 650,949	\$ 1,142,502	\$ 1,147,481	\$2,940,932
MAXIMUM OBLIGATION	\$ 650,949	\$ 1,142,502	\$ 1,147,481	\$2,940,932

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30 B. CONTRACTOR and ADMINISTRATOR mutually agree that the Maximum Obligation
31 identified in Subparagraph II.A. of this Exhibit A to the Contract includes Indirect Costs not to exceed
32 fifteen percent (15%) of Direct Costs, and which may include operating income estimated at two percent
33 (2%). Final settlement paid to CONTRACTOR shall include Indirect Costs and such Indirect Costs may
34 include operating income.

35 C. BUDGET/STAFFING MODIFICATIONS – CONTRACTOR may request to shift funds
36 between programs, or between budgeted line items within a program, for the purpose of meeting
37 specific program needs or for providing continuity of care to its members, by utilizing a Budget/Staffing

1 Modification Request form provided by ADMINISTRATOR. CONTRACTOR shall submit a properly
2 completed Budget/Staffing Modification Request to ADMINISTRATOR for consideration, in advance,
3 which will include a justification narrative specifying the purpose of the request, the amount of said
4 funds to be shifted, and the sustaining annual impact of the shift as may be applicable to the current
5 contract period and/or future contract periods. CONTRACTOR shall obtain written approval of any
6 Budget/Staffing Modification Request(s) from ADMINISTRATOR prior to implementation by
7 CONTRACTOR. Failure of CONTRACTOR to obtain written approval from ADMINISTRATOR for
8 any proposed Budget/Staffing Modification Request(s) may result in disallowance of those costs.

9 D. FINANCIAL RECORDS – CONTRACTOR shall prepare and maintain accurate and complete
10 financial records of its cost and operating expenses. Such records will reflect the actual cost of the type
11 of service for which payment is claimed. Any apportionment of or distribution of costs, including
12 indirect costs, to or between programs or cost centers of CONTRACTOR shall be documented, and will
13 be made in accordance with GAAP, and Medicare regulations. The Client eligibility determination and
14 fee charged to and collected from Clients, together with a record of all billings rendered and revenues
15 received from any source, on behalf of Clients treated pursuant to the Contract, must be reflected in
16 CONTRACTOR's financial records.

17 E. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
18 Budget Paragraph of this Exhibit A to the Contract.

19 **III. PAYMENTS**

20
21 A. COUNTY shall pay CONTRACTOR monthly, in arrears, the provisional amount of \$81,369
22 per month for Period One, \$95,209 per month for Period Two and \$95,623 per month for Period Three.
23 All payments are interim payments only and are subject to Final Settlement in accordance with the Cost
24 Report Paragraph of the Contract for which CONTRACTOR shall be reimbursed for the actual cost of
25 providing the services, which may include Indirect Administrative Costs, as identified in Subparagraph
26 II.A. of this Exhibit A to the Contract; provided, however, the total of such payments does not exceed
27 COUNTY's Maximum Obligation as specified in the Referenced Contract provisions of the Contract
28 and, provided further, CONTRACTOR's costs are reimbursable pursuant to COUNTY, State and/or
29 Federal regulations. ADMINISTRATOR may, at its discretion, pay supplemental invoices or make
30 advance payments for any month during the term.

31 1. In support of the monthly invoices, CONTRACTOR shall submit an Expenditure and
32 Revenue Report as specified in the Reports Paragraph of this Exhibit A to the Contract.
33 ADMINISTRATOR shall use the Expenditure and Revenue Report to determine payment to
34 CONTRACTOR as specified in Subparagraphs A.2. and A.3., below.

35 2. If, at any time, CONTRACTOR's Expenditure and Revenue Reports indicate that the
36 provisional amount payments exceed the actual cost of providing services, ADMINISTRATOR may
37 reduce COUNTY payments to CONTRACTOR by an amount not to exceed the difference between the

1 year-to-date provisional amount payments to CONTRACTOR's and the year-to-date actual cost
2 incurred by CONTRACTOR.

3 3. If, at any time, CONTRACTOR's Expenditure and Revenue Reports indicate that the
4 provisional amount payments are less than the actual cost of providing services, ADMINISTRATOR
5 may authorize an increase in the provisional amount payment to CONTRACTOR by an amount not to
6 exceed the difference between the year-to-date provisional amount payments to CONTRACTOR and
7 the year-to-date actual cost incurred by CONTRACTOR.

8 B. CONTRACTOR's invoices shall be on a form approved or supplied by COUNTY and provide
9 such information as is required by ADMINISTRATOR. Invoices are due the tenth (10th) calendar day
10 of each month. Invoices received after the due date may not be paid within the same month. Payments
11 to CONTRACTOR should be released by COUNTY no later than thirty (30) calendar days after receipt
12 of the correctly completed invoice form.

13 C. All invoices to COUNTY shall be supported, at CONTRACTOR's facility, by source
14 documentation including, but not limited to, ledgers, journals, time sheets, invoices, bank statements,
15 canceled checks, receipts, receiving records and records of services provided.

16 D. ADMINISTRATOR may withhold or delay any payment if CONTRACTOR fails to comply
17 with any provision of the Contract.

18 E. COUNTY shall not reimburse CONTRACTOR for services provided beyond the expiration
19 and/or termination of the Contract, except as may otherwise be provided under the Contract, or
20 specifically agreed upon in a subsequent Contract.

21 F. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
22 Payments Paragraph of this Exhibit A to the Contract.

23 24 **IV. REPORTS**

25 **A. MONTHLY PROGRAMMATIC**

26 1. CONTRACTOR shall submit a monthly programmatic report to ADMINISTRATOR,
27 including information required and on a form approved or provided by ADMINISTRATOR. These
28 monthly programmatic reports should be submitted to ADMINISTRATOR no later than the tenth (10th)
29 calendar day of the month following the report month.

30 2. CONTRACTOR shall be responsible for including in the monthly programmatic report any
31 problems in implementing the provisions of this Contract, pertinent facts or interim findings, staff
32 changes, changes in population served, and reasons for any changes. Additionally, a statement that the
33 CONTRACTOR is or is not progressing satisfactorily in achieving all the terms of the Contract shall be
34 included.

35 **B. FISCAL**

36 1. In support of the monthly invoice, CONTRACTOR shall submit monthly Expenditure and
37 Revenue Reports to ADMINISTRATOR. These reports shall be on a form acceptable to, or provided by

1 ADMINISTRATOR and shall report actual costs and revenues for each of the CONTRACTOR's
2 program(s) or cost center(s) described in the Services Paragraph of Exhibit A to the Contract.
3 CONTRACTOR shall submit these reports by no later than twenty (20) calendar days following the end
4 of the month reported.

5 2. CONTRACTOR shall submit Year-End Projection Reports to ADMINISTRATOR. These
6 reports shall be on a form acceptable to, or provided by, ADMINISTRATOR and shall report
7 anticipated year-end actual costs and revenues for CONTRACTOR's program(s) or cost center(s)
8 described in the Services Paragraph of Exhibit A to the Contract. Such reports shall include actual
9 monthly costs and revenue to date and anticipated monthly costs and revenue to the end of the fiscal
10 year. Year-End Projection Reports shall be submitted at the same time as the monthly Expenditure and
11 Revenue Reports.

12 C. MONTHLY IRIS – CONTRACTOR shall input all Units of Service provided in COUNTY's
13 IRIS database for the preceding month no later than the fifth (5th) calendar day of the month following
14 the report month.

15 D. ADDITIONAL REPORTS – CONTRACTOR shall make additional reports as required by
16 ADMINISTRATOR concerning CONTRACTOR's activities as they affect the services hereunder.
17 ADMINISTRATOR will be specific as to the nature of the information requested and the timeframe the
18 information is needed.

19 E. CONTRACTOR agrees to enter psychometrics into COUNTY's EHR system as requested by
20 ADMINISTRATOR. Said psychometrics are for the COUNTY's analytical uses only, and shall not be
21 relied upon by CONTRACTOR to make clinical decisions. CONTRACTOR agrees to hold COUNTY
22 harmless, and indemnify pursuant to Section XI, from any claims that arise from non-COUNTY use of
23 said psychometrics.

24 F. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
25 Reports Paragraph of this Exhibit A to the Contract.

26 27 **V. GENERAL REQUIREMENTS**

28 A. MEETINGS – CONTRACTOR's Executive Director or designee shall participate, when
29 requested, in meetings facilitated by ADMINISTRATOR related to the provision of services pursuant to
30 this Contract.

31 B. CULTURAL COMPETENCY – CONTRACTORS must ensure that their policies, procedures,
32 and practices are consistent with the principles outlined and are embedded in the organizational
33 structure, as well as being upheld in day-to-day operations. Translation services must be available for
34 beneficiaries, as needed. CONTRACTOR shall maintain documentation of such efforts which may
35 include; but not be limited to: records of participation in COUNTY-sponsored or other applicable
36 training; recruitment and hiring policies and procedures; copies of literature in multiple languages and
37 formats, as appropriate; and descriptions of measures taken to enhance accessibility for, and sensitivity

1 to, individuals who are physically challenged.

2 C. CONTRACTOR shall include bilingual/bicultural services to meet the needs of threshold
3 languages as determined by COUNTY. Whenever possible, bilingual/bicultural staff should be retained.
4 Any clinical vacancies occurring at a time when bilingual and bicultural composition of the clinical
5 staffing does not meet the above requirement must be filled with bilingual and bicultural staff unless
6 ADMINISTRATOR consents, in writing, to the filling of those positions with non-bilingual staff.
7 Salary savings resulting from such vacant positions may not be used to cover costs other than salaries
8 and employees benefits unless otherwise authorized in writing, in advance, by ADMINISTRATOR.

9 D. POSTINGS – CONTRACTOR shall post the following in a prominent place within the facility:

- 10 1. Business License
- 11 2. Conditional Use Permit (if applicable)
- 12 3. Fire clearance
- 13 4. Client rights
- 14 5. Grievance procedure
- 15 6. Employee Code of Conduct
- 16 7. Evacuation floor plan
- 17 8. Equal Employment Opportunity notices
- 18 9. Name, address, telephone number for fire department, crisis program, local law
19 enforcement, and ambulance service.
- 20 10. List of resources within community which shall include medical, dental, mental health,
21 public health, social services and where to apply for determination of eligibility for State, Federal or
22 county entitlement programs.

23 11. Information on self-help meetings. AA, NA, and non-12 step meetings shall be included.

24 E. NO PROSELYTIZING POLICY – CONTRACTOR shall not conduct any proselytizing
25 activities, regardless of funding sources, with respect to any person who has been referred to
26 CONTRACTOR by COUNTY under the terms of this Contract. Further, CONTRACTOR agrees that
27 the funds provided hereunder shall not be used to promote, directly or indirectly, any religion, religious
28 creed or cult, denomination or sectarian institution, or religious belief.

29 F. NON-SMOKING POLICY – CONTRACTOR shall establish a written non-smoking policy
30 which shall be reviewed and approved by ADMINISTRATOR.

31 G. GOOD NEIGHBOR POLICY – CONTRACTOR shall establish a Good Neighbor Policy,
32 which shall be reviewed and approved by ADMINISTRATOR. The policy shall include, but not be
33 limited to, staff training to deal with neighbor complaints, staff contact information available to
34 neighboring residents and complaint procedures. CONTRACTOR shall also contact city management
35 in each city where Client services are provided to inform them of the nature of the services provided
36 under this Contract. CONTRACTOR shall work collaboratively with city management to resolve any
37 concerns regarding community relations.

1 H. VISITATION POLICY – CONTRACTOR shall establish a written Visitation Policy if visitors
2 are allowed, to be reviewed and approved by ADMINISTRATOR, which shall include, but not be
3 limited to, the following:

- 4 1. Sign in logs;
- 5 2. Visitation hours; and
- 6 3. Designated visiting areas at the Facility.

7 I. OPIOID OVERDOSE EMERGENCY TREATMENT – CONTRACTOR shall have available
8 at each program site at minimum one (1) Naloxone Nasal Spray for the treatment of known or suspected
9 opioid overdose. At least one (1) staff per shift shall be trained in administering the Naloxone Nasal
10 Spray. Naloxone Nasal Spray is not a substitute for emergency medical care. CONTRACTOR shall
11 always seek emergency medical assistance in the event of a suspected, potentially life-threatening opioid
12 emergency.

13 J. TOKENS – ADMINISTRATOR will provide CONTRACTOR the necessary number of Tokens
14 for appropriate individual staff to access IRIS at no cost to the CONTRACTOR.

15 1. CONTRACTOR recognizes that a Token is assigned to a specific individual staff member
16 with a unique password. Tokens and passwords shall not be shared with anyone.

17 2. CONTRACTOR shall maintain an inventory of the Tokens, by serial number, and the staff
18 member to whom each is assigned.

19 3. CONTRACTOR shall indicate in the monthly staffing report, the serial number of the
20 Token for each staff member assigned a Token.

21 4. CONTRACTOR shall return to ADMINISTRATOR all Tokens under the following
22 conditions:

- 23 a. Token of each staff member who no longer supports this Contract.
- 24 b. Token of each staff member who no longer requires access to IRIS.
- 25 c. Token of each staff member who leaves employment of CONTRACTOR.
- 26 d. Tokens malfunctioning.

27 5. ADMINISTRATOR will issue Tokens for CONTRACTOR’s staff members who require
28 access to the IRIS upon initial training or as a replacement for malfunctioning Tokens. CONTRACTOR
29 shall reimburse the COUNTY for Tokens lost, stolen, or damaged through acts of negligence.

30 K. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
31 General Requirements Paragraph of this Exhibit A to the Contract.

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VI. SERVICES

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2 A. FACILITY –CONTRACTOR shall ensure facility remains clean, safe and in good repair. The
3 Sobering Center consists of 15 cots, an intake station, showers, food storage, and a laundry facility.
4 CONTRACTOR shall store client personal belongings while receiving services. Services shall be
5 provided at the following locations, or at any other location approved in advance, in writing, by
6 ADMINISTRATOR:

7
8 265 South Anita Drive
9 Orange, CA 92868
10

11 B. PERSONS TO BE SERVED – Sobering Center services shall be provided to adults 18 years of
12 age and older, who present with intoxication and can safely be served at the facility. These persons
13 might otherwise be detained by law enforcement or utilize hospital emergency departments for issues
14 related to intoxication. Persons must arrive at the center by vehicle. Arriving on foot is not permitted.
15 Referrals will come from HCA identified referral sources. This service will be provided to all eligible
16 individuals, regardless of insurance.

17 C. SERVICES

- 18 1. Screening - CONTRACTOR shall perform phone screening with referral source to
19 determine if the individual can be safely served in the facility.
- 20 2. Admissions - CONTRACTOR shall ensure admissions are conducted 24 hours a day.
- 21 3. Intake – CONTRACTOR shall record demographics and past medical history.
- 22 4. Engagement – CONTRACTOR shall utilize evidence based practices such as Motivational
23 Interviewing and/ or Negotiated interviewing to engage clients who may not wish to
24 participate to assist with preventing clients from leaving prior to it being safe for them to do
25 so.
- 26 5. Monitoring – CONTRACTOR shall monitor of signs and symptoms of intoxication per
27 protocols established by medical staff. CONTRACTOR shall incorporate blood pressure
28 checks and the Clinical Opiate Withdrawal Scale (COWS) and/or Clinical Institute
29 Withdrawal Assessment of Alcohol (CIWA) scale Clients who are sleeping will be
30 monitored visually every 30 minutes..
- 31 6. Anticipated length of stay to last between 6 and 8 hours. Length of stay shall be less than
32 24 hours.
- 33 7. Ancillary Services – CONTRACTOR shall provide light snacks and hydration, temporary
34 clean clothing, toiletries, clean linen and laundry service.
- 35 8. Discharge Planning – CONTRACTOR must begin Discharge Planning as soon as the Client
36 enters Sobering Services. CONTRACTOR shall develop an exit/transition plan with the
37 Client. The exit/transition plan shall include:

- 1 a) A strategy or strategies to assist the Client in maintaining an alcohol and drug free
2 lifestyle.
- 3 b) A plan for linkage and transition of the Client to appropriate services, including
4 treatment services. When Residential Treatment services are appropriate,
5 CONTRACTOR shall link client to the residential access center by phone to complete
6 an assessment and obtain residential authorization.
- 7 c) Linkage – CONTRACTOR shall provide a warm link transfer to ongoing physical
8 health, and/or behavioral health treatment as appropriate utilizing ASAM criteria to
9 determine appropriate level of care. CONTRACTOR shall provide referral and linkage
10 to support group meetings, and Social Service benefits.
- 11 9. Transportation – Contractor shall arrange for or provide transportation to next care setting
12 upon discharge.
- 13 10. Support Services – CONTRACTOR shall provide housekeeping, maintenance and
14 arrangements for emergency and non-emergency medical services.
- 15 11. Follow-up – CONTRACTOR shall obtain consent to follow-up while client is in services
16 and shall follow up with client at 7 and 30 days post-services.

17 **D. PERFORMANCE OUTCOMES**

- 18 1. Capture average transfer rate of clients from services.
- 19 2. Capture number of clients served.
- 20 3. Capture number of first time admissions
- 21 4. Capture average vacancy rate
- 22 5. Provide percentage of clients who accepted a referral appointment upon discharge
- 23 6. Capture percentage of clients who complete a feedback survey – including positive and
24 negative feedback from clients on the impact of services provided and led by staff and on the their
25 likelihood of engaging in follow-up treatment
- 26 7. Provide information on Stage of change indicator and appropriate interventions/referrals
27 based on stage of change indicator
- 28 8. Capture percentage of clients who complete a relapse prevention plan prior to discharge
- 29 9. Capture percentage of clients who are reached through a 7-day follow-up phone call
- 30 10. Capture percentage of clients who successfully complete referral appointment
- 31 11. Capture percentage of clients who are reached through a 30-day follow-up phone call.

32 E. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
33 Services paragraph of this Exhibit A to the Contract.

34
35 **VII. STAFFING**

36 A. CONTRACTOR shall provide adequate staffing to assure that the services outlined above are
37 performed in an efficient manner.

1 B. CONTRACTOR shall include bilingual/bicultural services to meet the needs of threshold
 2 languages as determined by ADMINISTRATOR. Whenever possible, bilingual/bicultural staff should
 3 be retained. Any clinical vacancies occurring at a time when bilingual and bicultural composition of the
 4 clinical staffing does not meet the above requirement, the vacancies must be filled with bilingual and
 5 bicultural staff unless ADMINISTRATOR consents, in advance and in writing, to the filling of those
 6 positions with non-bilingual staff. Salary savings resulting from such vacant positions may not be used
 7 to cover costs other than salaries and employees benefits unless otherwise authorized, in advance and in
 8 writing, by ADMINISTRATOR.

9 C. CONTRACTOR shall maintain personnel files for each staff person, including management and
 10 other administrative positions, both direct and indirect to the Contract, which shall include, but not be
 11 limited to, an application for employment, qualifications for the position, applicable licenses, waivers,
 12 registrations, documentation of bicultural/bilingual capabilities (if applicable), pay rate and evaluations
 13 justifying pay increases.

14 D. CONTRACTOR shall make its best effort to provide services pursuant to the Contract in a
 15 manner that is culturally and linguistically appropriate for the population(s) served. CONTRACTOR
 16 shall maintain documents of such efforts which may include; but not be limited to: records of
 17 participation in COUNTY-sponsored or other applicable training; recruitment and hiring P&Ps; copies
 18 of literature in multiple languages and formats, as appropriate; and descriptions of measures taken to
 19 enhance accessibility for, and sensitivity to, clients who are physically challenged.

20 E. CONTRACTOR shall ensure that all staff, paid or unpaid, complete necessary training prior to
 21 discharging duties associated with their titles and any other training necessary to assist the
 22 CONTRACTOR and COUNTY to be in compliance with prevailing standards of practice as well as
 23 State and Federal regulatory requirements.

24 F. CONTRACTOR shall ensure that all staff, including interns and volunteers, are trained and
 25 have a clear understanding of all P&Ps. CONTRACTOR shall provide signature confirmation of the
 26 P&P training for each staff member and place in their personnel files.

27 G. CONTRACTOR shall provide detailed job descriptions, including education and experience
 28 requirements, all applicable responsibilities, assigned duties, and workflow for each delineated position.

29 H. CONTRACTOR shall, at a minimum, provide the following staffing pattern expressed in
 30 Full-Time Equivalent (FTEs) continuously throughout the term of the Contract. One (1) FTE shall be
 31 equal to an average of forty (40) hours work per week.

<u>PROGRAM</u>	<u>Proposed FTEs</u>
Campus Administrator	0.25
Program Director	0.25
Regional Director of Operations	0.05
Office Coordinator II	0.50
Medical Records Technician	0.25
Regional IT Support Analyst	0.02

1	HR Generalist	0.05
2	SUTS Coordinator - Transportation Worker	0.25
3	SUTS Counselor	2.80
4	SUTS Coordinator	7.00
4	Peer Recovery Coach	<u>0.60</u>
5	TOTAL FTEs	12.02

7 I. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
8 Staffing Paragraph of this Exhibit A to the Contract.

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EXHIBIT B
 TO CONTRACT FOR PROVISION OF
 SOBERING CENTER SERVICES
 BETWEEN
 COUNTY OF ORANGE
 AND
 TELECARE CORPORATION
 NOVEMBER 1, 2020 THROUGH JUNE 30, 2023

I. BUSINESS ASSOCIATE CONTRACT

A. GENERAL PROVISIONS AND RECITALS

1. The parties agree that the terms used, but not otherwise defined in the Common Terms and Definitions Paragraph of Exhibit A to the Contract or in Subparagraph B below, shall have the same meaning given to such terms under HIPAA, the HITECH Act, and their implementing regulations at 45 CFR Parts 160 and 164 (“the HIPAA regulations”) as they may exist now or be hereafter amended.

2. The parties agree that a business associate relationship under HIPAA, the HITECH Act, and the HIPAA regulations between the CONTRACTOR and COUNTY arises to the extent that CONTRACTOR performs, or delegates to subcontractors to perform, functions or activities on behalf of COUNTY pursuant to, and as set forth in, the Contract that are described in the definition of “Business Associate” in 45 CFR § 160.103.

3. The COUNTY wishes to disclose to CONTRACTOR certain information pursuant to the terms of the Contract, some of which may constitute PHI, as defined below in Subparagraph B.10, to be used or disclosed in the course of providing services and activities pursuant to, and as set forth, in the Contract.

4. The parties intend to protect the privacy and provide for the security of PHI that may be created, received, maintained, transmitted, used, or disclosed pursuant to the Contract in compliance with the applicable standards, implementation specifications, and requirements of HIPAA, the HITECH Act, and the HIPAA regulations as they may exist now or be hereafter amended.

5. The parties understand and acknowledge that HIPAA, the HITECH Act, and the HIPAA regulations do not pre-empt any state statutes, rules, or regulations that are not otherwise pre-empted by other Federal law(s) and impose more stringent requirements with respect to privacy of PHI.

6. The parties understand that the HIPAA Privacy and Security rules, as defined below in Subparagraphs B.9 and B.14, apply to the CONTRACTOR in the same manner as they apply to the covered entity (COUNTY). CONTRACTOR agrees therefore to be in compliance at all times with the terms of this Business Associate Contract, as it exists now or be hereafter updated with notice to CONTRACTOR, and the applicable standards, implementation specifications, and requirements of the

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1 Privacy and the Security rules, as they may exist now or be hereafter amended, with respect to PHI and
2 electronic PHI created, received, maintained, transmitted, used, or disclosed pursuant to the Contract.

3 B. DEFINITIONS

4 1. "Administrative Safeguards" are administrative actions, and P&Ps, to manage the selection,
5 development, implementation, and maintenance of security measures to protect ePHI and to manage the
6 conduct of CONTRACTOR's workforce in relation to the protection of that information.

7 2. "Breach" means the acquisition, access, use, or disclosure of PHI in a manner not permitted
8 under the HIPAA Privacy Rule which compromises the security or privacy of the PHI.

9 a. Breach excludes:

10 1) Any unintentional acquisition, access, or use of PHI by a workforce member or
11 person acting under the authority of CONTRACTOR or COUNTY, if such acquisition, access, or use
12 was made in good faith and within the scope of authority and does not result in further use or disclosure
13 in a manner not permitted under the Privacy Rule.

14 2) Any inadvertent disclosure by a person who is authorized to access PHI at
15 CONTRACTOR to another person authorized to access PHI at the CONTRACTOR, or organized health
16 care arrangement in which COUNTY participates, and the information received as a result of such
17 disclosure is not further used or disclosed in a manner not permitted under the HIPAA Privacy Rule.

18 3) A disclosure of PHI where CONTRACTOR or COUNTY has a good faith belief
19 that an unauthorized person to whom the disclosure was made would not reasonably have been able to
20 retain such information.

21 b. Except as provided in Subparagraph a. of this definition, an acquisition, access, use, or
22 disclosure of PHI in a manner not permitted under the HIPAA Privacy Rule is presumed to be a breach
23 unless CONTRACTOR demonstrates that there is a low probability that the PHI has been compromised
24 based on a risk assessment of at least the following factors:

25 1) The nature and extent of the PHI involved, including the types of identifiers and the
26 likelihood of re-identification;

27 2) The unauthorized person who used the PHI or to whom the disclosure was made;

28 3) Whether the PHI was actually acquired or viewed; and

29 4) The extent to which the risk to the PHI has been mitigated.

30 3. "Data Aggregation" shall have the meaning given to such term under the HIPAA Privacy
31 Rule in 45 CFR § 164.501.

32 4. "DRS" shall have the meaning given to such term under the HIPAA Privacy Rule in
33 45 CFR § 164.501.

34 5. "Disclosure" shall have the meaning given to such term under the HIPAA regulations in
35 45 CFR § 160.103.

36 6. "Health Care Operations" shall have the meaning given to such term under the HIPAA
37 Privacy Rule in 45 CFR § 164.501.

1 7. "Individual" shall have the meaning given to such term under the HIPAA Privacy Rule in
2 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance
3 with 45 CFR § 164.502(g).

4 8. "Physical Safeguards" are physical measures, policies, and procedures to protect
5 CONTRACTOR's electronic information systems and related buildings and equipment, from natural
6 and environmental hazards, and unauthorized intrusion.

7 9. "The HIPAA Privacy Rule" shall mean the Standards for Privacy of Individually
8 Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.

9 10. "PHI" shall have the meaning given to such term under the HIPAA regulations in
10 45 CFR § 160.103.

11 11. "Required by Law" shall have the meaning given to such term under the HIPAA Privacy
12 Rule in 45 CFR § 164.103.

13 12. "Secretary" shall mean the Secretary of the Department of HHS or his or her designee.

14 13. "Security Incident" means attempted or successful unauthorized access, use, disclosure,
15 modification, or destruction of information or interference with system operations in an information
16 system. "Security incident" does not include trivial incidents that occur on a daily basis, such as scans,
17 "pings", or unsuccessful attempts to penetrate computer networks or servers maintained by
18 CONTRACTOR.

19 14. "The HIPAA Security Rule" shall mean the Security Standards for the Protection of ePHI at
20 45 CFR Part 160, Part 162, and Part 164, Subparts A and C.

21 15. "Subcontractor" shall have the meaning given to such term under the HIPAA regulations in
22 45 CFR § 160.103.

23 16. "Technical safeguards" means the technology and the P&Ps for its use that protect
24 electronic PHI and control access to it.

25 17. "Unsecured PHI" or "PHI that is unsecured" means PHI that is not rendered unusable,
26 unreadable, or indecipherable to unauthorized individuals through the use of a technology or
27 methodology specified by the Secretary of HHS in the guidance issued on the HHS Web site.

28 18. "Use" shall have the meaning given to such term under the HIPAA regulations in
29 45 CFR § 160.103.

30 C. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR AS BUSINESS ASSOCIATE

31 1. CONTRACTOR agrees not to use or further disclose PHI COUNTY discloses to
32 CONTRACTOR other than as permitted or required by this Business Associate Contract or as required
33 by law.

34 2. CONTRACTOR agrees to use appropriate safeguards, as provided for in this Business
35 Associate Contract and the Contract, to prevent use or disclosure of PHI COUNTY discloses to
36 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
37 other than as provided for by this Business Associate Contract.

1 3. CONTRACTOR agrees to comply with the HIPAA Security Rule at Subpart C of 45 CFR
2 Part 164 with respect to ePHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates,
3 receives, maintains, or transmits on behalf of COUNTY.

4 4. CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect that is
5 known to CONTRACTOR of a Use or Disclosure of PHI by CONTRACTOR in violation of the
6 requirements of this Business Associate Contract.

7 5. CONTRACTOR agrees to report to COUNTY immediately any Use or Disclosure of PHI
8 not provided for by this Business Associate Contract of which CONTRACTOR becomes aware.
9 CONTRACTOR must report Breaches of Unsecured PHI in accordance with Subparagraph E below and
10 as required by 45 CFR § 164.410.

11 6. CONTRACTOR agrees to ensure that any Subcontractors that create, receive, maintain, or
12 transmit PHI on behalf of CONTRACTOR agree to the same restrictions and conditions that apply
13 through this Business Associate Contract to CONTRACTOR with respect to such information.

14 7. CONTRACTOR agrees to provide access, within fifteen (15) calendar days of receipt of a
15 written request by COUNTY, to PHI in a DRS, to COUNTY or, as directed by COUNTY, to an
16 Individual in order to meet the requirements under 45 CFR § 164.524. If CONTRACTOR maintains an
17 EHR with PHI, and an individual requests a copy of such information in an electronic format,
18 CONTRACTOR shall provide such information in an electronic format.

19 8. CONTRACTOR agrees to make any amendment(s) to PHI in a DRS that COUNTY directs
20 or agrees to pursuant to 45 CFR § 164.526 at the request of COUNTY or an Individual, within thirty
21 (30) calendar days of receipt of said request by COUNTY. CONTRACTOR agrees to notify COUNTY
22 in writing no later than ten (10) calendar days after said amendment is completed.

23 9. CONTRACTOR agrees to make internal practices, books, and records, including P&Ps,
24 relating to the use and disclosure of PHI received from, or created or received by CONTRACTOR on
25 behalf of, COUNTY available to COUNTY and the Secretary in a time and manner as determined by
26 COUNTY or as designated by the Secretary for purposes of the Secretary determining COUNTY's
27 compliance with the HIPAA Privacy Rule.

28 10. CONTRACTOR agrees to document any Disclosures of PHI COUNTY discloses to
29 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY,
30 and to make information related to such Disclosures available as would be required for COUNTY to
31 respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with
32 45 CFR § 164.528.

33 11. CONTRACTOR agrees to provide COUNTY or an Individual, as directed by COUNTY, in
34 a time and manner to be determined by COUNTY, that information collected in accordance with the
35 Contract, in order to permit COUNTY to respond to a request by an Individual for an accounting of
36 Disclosures of PHI in accordance with 45 CFR § 164.528.

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1 12. CONTRACTOR agrees that to the extent CONTRACTOR carries out COUNTY's
2 obligation under the HIPAA Privacy and/or Security rules CONTRACTOR will comply with the
3 requirements of 45 CFR Part 164 that apply to COUNTY in the performance of such obligation.

4 13. If CONTRACTOR receives Social Security data from COUNTY provided to COUNTY by
5 a state agency, upon request by COUNTY, CONTRACTOR shall provide COUNTY with a list of all
6 employees, subcontractors, and agents who have access to the Social Security data, including
7 employees, agents, subcontractors, and agents of its subcontractors.

8 14. CONTRACTOR will notify COUNTY if CONTRACTOR is named as a defendant in a
9 criminal proceeding for a violation of HIPAA. COUNTY may terminate the Contract, if
10 CONTRACTOR is found guilty of a criminal violation in connection with HIPAA. COUNTY may
11 terminate the Contract, if a finding or stipulation that CONTRACTOR has violated any standard or
12 requirement of the privacy or security provisions of HIPAA, or other security or privacy laws are made
13 in any administrative or civil proceeding in which CONTRACTOR is a party or has been joined.
14 COUNTY will consider the nature and seriousness of the violation in deciding whether or not to
15 terminate the Contract.

16 15. CONTRACTOR shall make itself and any subcontractors, employees or agents assisting
17 CONTRACTOR in the performance of its obligations under the Contract, available to COUNTY at no
18 cost to COUNTY to testify as witnesses, or otherwise, in the event of litigation or administrative
19 proceedings being commenced against COUNTY, its directors, officers or employees based upon
20 claimed violation of HIPAA, the HIPAA regulations or other laws relating to security and privacy,
21 which involves inactions or actions by CONTRACTOR, except where CONTRACTOR or its
22 subcontractor, employee, or agent is a named adverse party.

23 16. The Parties acknowledge that federal and state laws relating to electronic data security and
24 privacy are rapidly evolving and that amendment of this Business Associate Contract may be required to
25 provide for procedures to ensure compliance with such developments. The Parties specifically agree to
26 take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH
27 Act, the HIPAA regulations and other applicable laws relating to the security or privacy of PHI. Upon
28 COUNTY's request, CONTRACTOR agrees to promptly enter into negotiations with COUNTY
29 concerning an amendment to this Business Associate Contract embodying written assurances consistent
30 with the standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations or other
31 applicable laws. COUNTY may terminate the Contract upon thirty (30) days written notice in the event:

32 a. CONTRACTOR does not promptly enter into negotiations to amend this Business
33 Associate Contract when requested by COUNTY pursuant to this Subparagraph C; or

34 b. CONTRACTOR does not enter into an amendment providing assurances regarding the
35 safeguarding of PHI that COUNTY deems are necessary to satisfy the standards and requirements of
36 HIPAA, the HITECH Act, and the HIPAA regulations.

37 17. CONTRACTOR shall work with COUNTY upon notification by CONTRACTOR to

1 COUNTY of a Breach to properly determine if any Breach exclusions exist as defined in Subparagraph
2 B.2.a above.

3 D. SECURITY RULE

4 1. CONTRACTOR shall comply with the requirements of 45 CFR § 164.306 and establish
5 and maintain appropriate Administrative, Physical and Technical Safeguards in accordance with
6 45 CFR § 164.308, § 164.310, and § 164.312, with respect to electronic PHI COUNTY discloses to
7 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY.
8 CONTRACTOR shall develop and maintain a written information privacy and security program that
9 includes Administrative, Physical, and Technical Safeguards appropriate to the size and complexity of
10 CONTRACTOR's operations and the nature and scope of its activities.

11 2. CONTRACTOR shall implement reasonable and appropriate P&Ps to comply with the
12 standards, implementation specifications and other requirements of 45 CFR Part 164, Subpart C, in
13 compliance with 45 CFR § 164.316. CONTRACTOR will provide COUNTY with its current and
14 updated policies upon request.

15 3. CONTRACTOR shall ensure the continuous security of all computerized data systems
16 containing ePHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives,
17 maintains, or transmits on behalf of COUNTY. CONTRACTOR shall protect paper documents
18 containing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives,
19 maintains, or transmits on behalf of COUNTY. These steps shall include, at a minimum:

20 a. Complying with all of the data system security precautions listed under Subparagraph
21 E., below;

22 b. Achieving and maintaining compliance with the HIPAA Security Rule, as necessary in
23 conducting operations on behalf of COUNTY;

24 c. Providing a level and scope of security that is at least comparable to the level and scope
25 of security established by the OMB in OMB Circular No. A-130, Appendix III - Security of Federal
26 Automated Information Systems, which sets forth guidelines for automated information systems in
27 Federal agencies;

28 4. CONTRACTOR shall ensure that any subcontractors that create, receive, maintain, or
29 transmit ePHI on behalf of CONTRACTOR agree through a contract with CONTRACTOR to the same
30 restrictions and requirements contained in this Subparagraph D of this Business Associate Contract.

31 5. CONTRACTOR shall report to COUNTY immediately any Security Incident of which it
32 becomes aware. CONTRACTOR shall report Breaches of Unsecured PHI in accordance with
33 Subparagraph E below and as required by 45 CFR § 164.410.

34 6. CONTRACTOR shall designate a Security Officer to oversee its data security program who
35 shall be responsible for carrying out the requirements of this paragraph and for communicating on
36 security matters with COUNTY.

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1 E. DATA SECURITY REQUIREMENTS

2 1. Personal Controls

3 a. Employee Training. All workforce members who assist in the performance of
4 functions or activities on behalf of COUNTY in connection with Contract, or access or disclose PHI
5 COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on
6 behalf of COUNTY, must complete information privacy and security training, at least annually, at
7 CONTRACTOR's expense. Each workforce member who receives information privacy and security
8 training must sign a certification, indicating the member's name and the date on which the training was
9 completed. These certifications must be retained for a period of six (6) years following the termination
10 of Contract.

11 b. Employee Discipline. Appropriate sanctions must be applied against workforce
12 members who fail to comply with any provisions of CONTRACTOR's privacy P&Ps, including
13 termination of employment where appropriate.

14 c. Confidentiality Statement. All persons that will be working with PHI COUNTY
15 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of
16 COUNTY must sign a confidentiality statement that includes, at a minimum, General Use, Security and
17 Privacy Safeguards, Unacceptable Use, and Enforcement Policies. The statement must be signed by the
18 workforce member prior to access to such PHI. The statement must be renewed annually. The
19 CONTRACTOR shall retain each person's written confidentiality statement for COUNTY inspection
20 for a period of six (6) years following the termination of the Contract.

21 d. Background Check. Before a member of the workforce may access PHI COUNTY
22 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of
23 COUNTY, a background screening of that worker must be conducted. The screening should be
24 commensurate with the risk and magnitude of harm the employee could cause, with more thorough
25 screening being done for those employees who are authorized to bypass significant technical and
26 operational security controls. CONTRACTOR shall retain each workforce member's background check
27 documentation for a period of three (3) years.

28 2. Technical Security Controls

29 a. Workstation/Laptop encryption. All workstations and laptops that store PHI COUNTY
30 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of
31 COUNTY either directly or temporarily must be encrypted using a FIPS 140-2 certified algorithm which
32 is 128bit or higher, such as AES. The encryption solution must be full disk unless approved by the
33 COUNTY.

34 b. Server Security. Servers containing unencrypted PHI COUNTY discloses to
35 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
36 must have sufficient administrative, physical, and technical controls in place to protect that data, based
37 upon a risk assessment/system security review.

1 c. Minimum Necessary. Only the minimum necessary amount of PHI COUNTY discloses
2 to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
3 required to perform necessary business functions may be copied, downloaded, or exported.

4 d. Removable media devices. All electronic files that contain PHI COUNTY discloses to
5 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
6 must be encrypted when stored on any removable media or portable device (i.e. USB thumb drives,
7 floppies, CD/DVD, Blackberry, backup tapes etc.). Encryption must be a FIPS 140-2 certified
8 algorithm which is 128bit or higher, such as AES. Such PHI shall not be considered “removed from the
9 premises” if it is only being transported from one of CONTRACTOR’s locations to another of
10 CONTRACTOR’s locations.

11 e. Antivirus software. All workstations, laptops and other systems that process and/or
12 store PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or
13 transmits on behalf of COUNTY must have installed and actively use comprehensive anti-virus software
14 solution with automatic updates scheduled at least daily.

15 f. Patch Management. All workstations, laptops and other systems that process and/or
16 store PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or
17 transmits on behalf of COUNTY must have critical security patches applied, with system reboot if
18 necessary. There must be a documented patch management process which determines installation
19 timeframe based on risk assessment and vendor recommendations. At a maximum, all applicable
20 patches must be installed within thirty (30) days of vendor release. Applications and systems that
21 cannot be patched due to operational reasons must have compensatory controls implemented to
22 minimize risk, where possible.

23 g. User IDs and Password Controls. All users must be issued a unique user name for
24 accessing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains,
25 or transmits on behalf of COUNTY. Username must be promptly disabled, deleted, or the password
26 changed upon the transfer or termination of an employee with knowledge of the password, at maximum
27 within twenty-four (24) hours. Passwords are not to be shared. Passwords must be at least eight
28 characters and must be a non-dictionary word. Passwords must not be stored in readable format on the
29 computer. Passwords must be changed every ninety (90) days, preferably every sixty (60) days.
30 Passwords must be changed if revealed or compromised. Passwords must be composed of characters
31 from at least three (3) of the following four (4) groups from the standard keyboard:

- 32 1) Upper case letters (A-Z)
- 33 2) Lower case letters (a-z)
- 34 3) Arabic numerals (0-9)
- 35 4) Non-alphanumeric characters (punctuation symbols)

36 h. Data Destruction. When no longer needed, all PHI COUNTY discloses to
37 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY

1 must be wiped using the Gutmann or US DoD 5220.22-M (7 Pass) standard, or by degaussing. Media
2 may also be physically destroyed in accordance with NIST Special Publication 800-88. Other methods
3 require prior written permission by COUNTY.

4 i. System Timeout. The system providing access to PHI COUNTY discloses to
5 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
6 must provide an automatic timeout, requiring re-authentication of the user session after no more than
7 twenty (20) minutes of inactivity.

8 j. Warning Banners. All systems providing access to PHI COUNTY discloses to
9 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
10 must display a warning banner stating that data is confidential, systems are logged, and system use is for
11 business purposes only by authorized users. User must be directed to log off the system if they do not
12 agree with these requirements.

13 k. System Logging. The system must maintain an automated audit trail which can
14 identify the user or system process which initiates a request for PHI COUNTY discloses to
15 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY,
16 or which alters such PHI. The audit trail must be date and time stamped, must log both successful and
17 failed accesses, must be read only, and must be restricted to authorized users. If such PHI is stored in a
18 database, database logging functionality must be enabled. Audit trail data must be archived for at least
19 three (3) years after occurrence.

20 l. Access Controls. The system providing access to PHI COUNTY discloses to
21 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
22 must use role based access controls for all user authentications, enforcing the principle of least privilege.

23 m. Transmission encryption. All data transmissions of PHI COUNTY discloses to
24 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
25 outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is
26 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files
27 containing PHI can be encrypted. This requirement pertains to any type of PHI in motion such as
28 website access, file transfer, and E-Mail.

29 n. Intrusion Detection. All systems involved in accessing, holding, transporting, and
30 protecting PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains,
31 or transmits on behalf of COUNTY that are accessible via the Internet must be protected by a
32 comprehensive intrusion detection and prevention solution.

33 3. Audit Controls

34 a. System Security Review. CONTRACTOR must ensure audit control mechanisms that
35 record and examine system activity are in place. All systems processing and/or storing PHI COUNTY
36 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of
37 COUNTY must have at least an annual system risk assessment/security review which provides

1 assurance that administrative, physical, and technical controls are functioning effectively and providing
2 adequate levels of protection. Reviews should include vulnerability scanning tools.

3 b. Log Reviews. All systems processing and/or storing PHI COUNTY discloses to
4 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
5 must have a routine procedure in place to review system logs for unauthorized access.

6 c. Change Control. All systems processing and/or storing PHI COUNTY discloses to
7 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
8 must have a documented change control procedure that ensures separation of duties and protects the
9 confidentiality, integrity and availability of data.

10 4. Business Continuity/Disaster Recovery Control

11 a. Emergency Mode Operation Plan. CONTRACTOR must establish a documented plan
12 to enable continuation of critical business processes and protection of the security of PHI COUNTY
13 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of
14 COUNTY kept in an electronic format in the event of an emergency. Emergency means any
15 circumstance or situation that causes normal computer operations to become unavailable for use in
16 performing the work required under this Contract for more than twenty-four (24) hours.

17 b. Data Backup Plan. CONTRACTOR must have established documented procedures to
18 backup such PHI to maintain retrievable exact copies of the PHI. The plan must include a regular
19 schedule for making backups, storing backup offsite, an inventory of backup media, and an estimate of
20 the amount of time needed to restore DHCS PHI or PI should it be lost. At a minimum, the schedule
21 must be a weekly full backup and monthly offsite storage of DHCS data. BCP for CONTRACTOR and
22 COUNTY (e.g. the application owner) must merge with the DRP.

23 5. Paper Document Controls

24 a. Supervision of Data. PHI COUNTY discloses to CONTRACTOR or CONTRACTOR
25 creates, receives, maintains, or transmits on behalf of COUNTY in paper form shall not be left
26 unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means
27 that information is not being observed by an employee authorized to access the information. Such PHI
28 in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in
29 baggage on commercial airplanes.

30 b. Escorting Visitors. Visitors to areas where PHI COUNTY discloses to
31 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY is
32 contained shall be escorted and such PHI shall be kept out of sight while visitors are in the area.

33 c. Confidential Destruction. PHI COUNTY discloses to CONTRACTOR or
34 CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY must be disposed of
35 through confidential means, such as cross cut shredding and pulverizing.

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1 d. Removal of Data. PHI COUNTY discloses to CONTRACTOR or CONTRACTOR
2 creates, receives, maintains, or transmits on behalf of COUNTY must not be removed from the premises
3 of the CONTRACTOR except with express written permission of COUNTY.

4 e. Faxing. Faxes containing PHI COUNTY discloses to CONTRACTOR or
5 CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY shall not be left
6 unattended and fax machines shall be in secure areas. Faxes shall contain a confidentiality statement
7 notifying persons receiving faxes in error to destroy them. Fax numbers shall be verified with the
8 intended recipient before sending the fax.

9 f. Mailing. Mailings containing PHI COUNTY discloses to CONTRACTOR or
10 CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY shall be sealed and
11 secured from damage or inappropriate viewing of PHI to the extent possible. Mailings which include
12 five hundred (500) or more individually identifiable records containing PHI COUNTY discloses to
13 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY in
14 a single package shall be sent using a tracked mailing method which includes verification of delivery
15 and receipt, unless the prior written permission of COUNTY to use another method is obtained.

16 F. BREACH DISCOVERY AND NOTIFICATION

17 1. Following the discovery of a Breach of Unsecured PHI, CONTRACTOR shall notify
18 COUNTY of such Breach, however both parties agree to a delay in the notification if so advised by a
19 law enforcement official pursuant to 45 CFR § 164.412.

20 a. A Breach shall be treated as discovered by CONTRACTOR as of the first day on which
21 such Breach is known to CONTRACTOR or, by exercising reasonable diligence, would have been
22 known to CONTRACTOR.

23 b. CONTRACTOR shall be deemed to have knowledge of a Breach, if the Breach is
24 known, or by exercising reasonable diligence would have known, to any person who is an employee,
25 officer, or other agent of CONTRACTOR, as determined by federal common law of agency.

26 2. CONTRACTOR shall provide the notification of the Breach immediately to the COUNTY
27 Privacy Officer. CONTRACTOR's notification may be oral, but shall be followed by written
28 notification within twenty-four (24) hours of the oral notification.

29 3. CONTRACTOR's notification shall include, to the extent possible:

30 a. The identification of each Individual whose Unsecured PHI has been, or is reasonably
31 believed by CONTRACTOR to have been, accessed, acquired, used, or disclosed during the Breach;

32 b. Any other information that COUNTY is required to include in the notification to
33 Individual under 45 CFR §164.404 (c) at the time CONTRACTOR is required to notify COUNTY or
34 promptly thereafter as this information becomes available, even after the regulatory sixty (60) day
35 period set forth in 45 CFR § 164.410 (b) has elapsed, including:

36 1) A brief description of what happened, including the date of the Breach and the date
37 of the discovery of the Breach, if known;

1 2) A description of the types of Unsecured PHI that were involved in the Breach (such
2 as whether full name, social security number, date of birth, home address, account number, diagnosis,
3 disability code, or other types of information were involved);

4 3) Any steps Individuals should take to protect themselves from potential harm
5 resulting from the Breach;

6 4) A brief description of what CONTRACTOR is doing to investigate the Breach, to
7 mitigate harm to Individuals, and to protect against any future Breaches; and

8 5) Contact procedures for Individuals to ask questions or learn additional information,
9 which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.

10 4. COUNTY may require CONTRACTOR to provide notice to the Individual as required in
11 45 CFR § 164.404, if it is reasonable to do so under the circumstances, at the sole discretion of the
12 COUNTY.

13 5. In the event that CONTRACTOR is responsible for a Breach of Unsecured PHI in violation
14 of the HIPAA Privacy Rule, CONTRACTOR shall have the burden of demonstrating that
15 CONTRACTOR made all notifications to COUNTY consistent with this Subparagraph F and as
16 required by the Breach notification regulations, or, in the alternative, that the acquisition, access, use, or
17 disclosure of PHI did not constitute a Breach.

18 6. CONTRACTOR shall maintain documentation of all required notifications of a Breach or
19 its risk assessment under 45 CFR § 164.402 to demonstrate that a Breach did not occur.

20 7. CONTRACTOR shall provide to COUNTY all specific and pertinent information about the
21 Breach, including the information listed in Section E.3.b.(1)-(5) above, if not yet provided, to permit
22 COUNTY to meet its notification obligations under Subpart D of 45 CFR Part 164 as soon as
23 practicable, but in no event later than fifteen (15) calendar days after CONTRACTOR's initial report of
24 the Breach to COUNTY pursuant to Subparagraph F.2. above.

25 8. CONTRACTOR shall continue to provide all additional pertinent information about the
26 Breach to COUNTY as it may become available, in reporting increments of five (5) business days after
27 the last report to COUNTY. CONTRACTOR shall also respond in good faith to any reasonable
28 requests for further information, or follow-up information after report to COUNTY, when such request
29 is made by COUNTY.

30 9. If the Breach is the fault of CONTRACTOR, CONTRACTOR shall bear all expense or
31 other costs associated with the Breach and shall reimburse COUNTY for all expenses COUNTY incurs
32 in addressing the Breach and consequences thereof, including costs of investigation, notification,
33 remediation, documentation or other costs associated with addressing the Breach.

34 G. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

35 1. CONTRACTOR may use or further disclose PHI COUNTY discloses to CONTRACTOR
36 as necessary to perform functions, activities, or services for, or on behalf of, COUNTY as specified in
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1 the Contract, provided that such use or Disclosure would not violate the HIPAA Privacy Rule if done by
2 COUNTY except for the specific Uses and Disclosures set forth below.

3 a. CONTRACTOR may use PHI COUNTY discloses to CONTRACTOR, if necessary,
4 for the proper management and administration of CONTRACTOR.

5 b. CONTRACTOR may disclose PHI COUNTY discloses to CONTRACTOR for the
6 proper management and administration of CONTRACTOR or to carry out the legal responsibilities of
7 CONTRACTOR, if:

8 1) The Disclosure is required by law; or

9 2) CONTRACTOR obtains reasonable assurances from the person to whom the PHI
10 is disclosed that it will be held confidentially and used or further disclosed only as required by law or for
11 the purposes for which it was disclosed to the person and the person immediately notifies
12 CONTRACTOR of any instance of which it is aware in which the confidentiality of the information has
13 been breached.

14 c. CONTRACTOR may use or further disclose PHI COUNTY discloses to
15 CONTRACTOR to provide Data Aggregation services relating to the Health Care Operations of
16 CONTRACTOR.

17 2. CONTRACTOR may use PHI COUNTY discloses to CONTRACTOR, if necessary, to
18 carry out legal responsibilities of CONTRACTOR.

19 3. CONTRACTOR may use and disclose PHI COUNTY discloses to CONTRACTOR
20 consistent with the minimum necessary P&Ps of COUNTY.

21 4. CONTRACTOR may use or disclose PHI COUNTY discloses to CONTRACTOR as
22 required by law.

23 H. PROHIBITED USES AND DISCLOSURES

24 1. CONTRACTOR shall not disclose PHI COUNTY discloses to CONTRACTOR or
25 CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY about an individual to
26 a health plan for payment or health care operations purposes if the PHI pertains solely to a health care
27 item or service for which the health care provider involved has been paid out of pocket in full and the
28 individual requests such restriction, in accordance with 42 USC § 17935(a) and 45 CFR § 164.522(a).

29 2. CONTRACTOR shall not directly or indirectly receive remuneration in exchange for PHI
30 COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on
31 behalf of COUNTY, except with the prior written consent of COUNTY and as permitted by
32 42 USC § 17935(d)(2).

33 I. OBLIGATIONS OF COUNTY

34 1. COUNTY shall notify CONTRACTOR of any limitation(s) in COUNTY's notice of
35 privacy practices in accordance with 45 CFR § 164.520, to the extent that such limitation may affect
36 CONTRACTOR's Use or Disclosure of PHI.

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1 2. COUNTY shall notify CONTRACTOR of any changes in, or revocation of, the permission
2 by an Individual to use or disclose his or her PHI, to the extent that such changes may affect
3 CONTRACTOR's Use or Disclosure of PHI.

4 3. COUNTY shall notify CONTRACTOR of any restriction to the Use or Disclosure of PHI
5 that COUNTY has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction
6 may affect CONTRACTOR's Use or Disclosure of PHI.

7 4. COUNTY shall not request CONTRACTOR to use or disclose PHI in any manner that
8 would not be permissible under the HIPAA Privacy Rule if done by COUNTY.

9 J. BUSINESS ASSOCIATE TERMINATION

10 1. Upon COUNTY's knowledge of a material Breach or violation by CONTRACTOR of the
11 requirements of this Business Associate Contract, COUNTY shall:

12 a. Provide an opportunity for CONTRACTOR to cure the material Breach or end the
13 violation within thirty (30) business days; or

14 b. Immediately terminate the Contract, if CONTRACTOR is unwilling or unable to cure
15 the material Breach or end the violation within thirty (30) days, provided termination of the Contract is
16 feasible.

17 2. Upon termination of the Contract, CONTRACTOR shall either destroy or return to
18 COUNTY all PHI CONTRACTOR received from COUNTY or CONTRACTOR created, maintained,
19 or received on behalf of COUNTY in conformity with the HIPAA Privacy Rule.

20 a. This provision shall apply to all PHI that is in the possession of Subcontractors or
21 agents of CONTRACTOR.

22 b. CONTRACTOR shall retain no copies of the PHI.

23 c. In the event that CONTRACTOR determines that returning or destroying the PHI is not
24 feasible, CONTRACTOR shall provide to COUNTY notification of the conditions that make return or
25 destruction infeasible. Upon determination by COUNTY that return or destruction of PHI is infeasible,
26 CONTRACTOR shall extend the protections of this Business Associate Contract to such PHI and limit
27 further Uses and Disclosures of such PHI to those purposes that make the return or destruction
28 infeasible, for as long as CONTRACTOR maintains such PHI.

29 3. The obligations of this Business Associate Contract shall survive the termination of the
30 Contract.

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EXHIBIT C
 TO CONTRACT FOR PROVISION OF
 SOBERING CENTER SERVICES
 BETWEEN
 COUNTY OF ORANGE
 AND
 TELECARE CORPORATION
 NOVEMBER 1, 2020 THROUGH JUNE 30, 2023

I. PERSONAL INFORMATION PRIVACY AND SECURITY CONTRACT

Any reference to statutory, regulatory, or contractual language herein shall be to such language as in effect or as amended.

A. DEFINITIONS

1. "Breach" shall have the meaning given to such term under the IEA and CMPPA. It shall include a "PII loss" as that term is defined in the CMPPA.

2. "Breach of the security of the system" shall have the meaning given to such term under the CIPA, CCC § 1798.29(d).

3. "CMPPA Contract" means the CMPPA Contract between the SSA and CHHS.

4. "DHCS PI" shall mean PI, as defined below, accessed in a database maintained by the COUNTY or DHCS, received by CONTRACTOR from the COUNTY or DHCS or acquired or created by CONTRACTOR in connection with performing the functions, activities and services specified in the Contract on behalf of the COUNTY.

5. "IEA" shall mean the IEA currently in effect between the SSA and DHCS.

6. "Notice-triggering PI" shall mean the PI identified in CCC § 1798.29(e) whose unauthorized access may trigger notification requirements under CCC § 1709.29. For purposes of this provision, identity shall include, but not be limited to, name, identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print, a photograph or a biometric identifier. Notice-triggering PI includes PI in electronic, paper or any other medium.

7. "PII" shall have the meaning given to such term in the IEA and CMPPA.

8. "PI" shall have the meaning given to such term in CCC § 1798.3(a).

9. "Required by law" means a mandate contained in law that compels an entity to make a use or disclosure of PI or PII that is enforceable in a court of law. This includes, but is not limited to, court orders and court-ordered warrants, subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or an administrative body authorized to require the production of information, and a civil or an authorized investigative demand. It also includes Medicare conditions of participation with respect to health care providers participating in the program, and statutes or

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1 regulations that require the production of information, including statutes or regulations that require such
2 information if payment is sought under a government program providing public benefits.

3 10. "Security Incident" means the attempted or successful unauthorized access, use, disclosure,
4 modification, or destruction of PI, or confidential data utilized in complying with this Contract; or
5 interference with system operations in an information system that processes, maintains or stores PI.

6 B. TERMS OF CONTRACT

7 1. Permitted Uses and Disclosures of DHCS PI and PII by CONTRACTOR. Except as
8 otherwise indicated in this Exhibit, CONTRACTOR may use or disclose DHCS PI only to perform
9 functions, activities, or services for or on behalf of the COUNTY pursuant to the terms of the Contract
10 provided that such use or disclosure would not violate the CIPA if done by the COUNTY.

11 2. Responsibilities of CONTRACTOR

12 CONTRACTOR agrees:

13 a. Nondisclosure. Not to use or disclose DHCS PI or PII other than as permitted or
14 required by this Personal Information Privacy and Security Contract or as required by applicable state
15 and federal law.

16 b. Safeguards. To implement appropriate and reasonable administrative, technical, and
17 physical safeguards to protect the security, confidentiality and integrity of DHCS PI and PII, to protect
18 against anticipated threats or hazards to the security or integrity of DHCS PI and PII, and to prevent use
19 or disclosure of DHCS PI or PII other than as provided for by this Personal Information Privacy and
20 Security Contract. CONTRACTOR shall develop and maintain a written information privacy and
21 security program that include administrative, technical and physical safeguards appropriate to the size
22 and complexity of CONTRACTOR's operations and the nature and scope of its activities, which
23 incorporate the requirements of Subparagraph c. below. CONTRACTOR will provide COUNTY with
24 its current policies upon request.

25 c. Security. CONTRACTOR shall ensure the continuous security of all computerized data
26 systems containing DHCS PI and PII. CONTRACTOR shall protect paper documents containing
27 DHCS PI and PII. These steps shall include, at a minimum:

28 1) Complying with all of the data system security precautions listed in Subparagraph
29 E. of the Business Associate Contract, Exhibit B to the Contract; and

30 2) Providing a level and scope of security that is at least comparable to the level and
31 scope of security established by the OMB in OMB Circular No. A-130, Appendix III-Security of
32 Federal Automated Information Systems, which sets forth guidelines for automated information systems
33 in Federal agencies.

34 3) If the data obtained by CONTRACTOR from COUNTY includes PII,
35 CONTRACTOR shall also comply with the substantive privacy and security requirements in the
36 CMPPA Contract between the SSA and the CHHS and in the Contract between the SSA and DHCS,
37 known as the IEA. The specific sections of the IEA with substantive privacy and security requirements

1 to be complied with are sections E, F, and G, and in Attachment 4 to the IEA, Electronic Information
 2 Exchange Security Requirements, Guidelines and Procedures for Federal, State and Local Agencies
 3 Exchanging Electronic Information with the SSA. CONTRACTOR also agrees to ensure that any of
 4 CONTRACTOR’s agents or subcontractors, to whom CONTRACTOR provides DHCS PII agree to the
 5 same requirements for privacy and security safeguards for confidential data that apply to
 6 CONTRACTOR with respect to such information.

7 d. Mitigation of Harmful Effects. To mitigate, to the extent practicable, any harmful effect
 8 that is known to CONTRACTOR of a use or disclosure of DHCS PI or PII by CONTRACTOR or its
 9 subcontractors in violation of this Personal Information Privacy and Security Contract.

10 e. CONTRACTOR's Agents and Subcontractors. To impose the same restrictions and
 11 conditions set forth in this Personal Information and Security Contract on any subcontractors or other
 12 agents with whom CONTRACTOR subcontracts any activities under the Contract that involve the
 13 disclosure of DHCS PI or PII to such subcontractors or other agents.

14 f. Availability of Information. To make DHCS PI and PII available to the DHCS and/or
 15 COUNTY for purposes of oversight, inspection, amendment, and response to requests for records,
 16 injunctions, judgments, and orders for production of DHCS PI and PII. If CONTRACTOR receives
 17 DHCS PII, upon request by COUNTY and/or DHCS, CONTRACTOR shall provide COUNTY and/or
 18 DHCS with a list of all employees, contractors and agents who have access to DHCS PII, including
 19 employees, contractors and agents of its subcontractors and agents.

20 g. Cooperation with COUNTY. With respect to DHCS PI, to cooperate with and assist the
 21 COUNTY to the extent necessary to ensure the DHCS’s compliance with the applicable terms of the
 22 CIPA including, but not limited to, accounting of disclosures of DHCS PI, correction of errors in DHCS
 23 PI, production of DHCS PI, disclosure of a security Breach involving DHCS PI and notice of such
 24 Breach to the affected individual(s).

25 h. Breaches and Security Incidents. During the term of the Contract, CONTRACTOR
 26 agrees to implement reasonable systems for the discovery of any Breach of unsecured DHCS PI and PII
 27 or security incident. CONTRACTOR agrees to give notification of any Breach of unsecured DHCS PI
 28 and PII or security incident in accordance with Subparagraph F, of the Business Associate Contract,
 29 Exhibit B to the Contract.

30 i. Designation of Individual Responsible for Security. CONTRACTOR shall designate an
 31 individual, (e.g., Security Officer), to oversee its data security program who shall be responsible for
 32 carrying out the requirements of this Personal Information Privacy and Security Contract and for
 33 communicating on security matters with the COUNTY.

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